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(HANSARD)

Thursday, May 6, 1999

THE HONOURABLE FERNAND ROBICHAUD
ACTING SPEAKER



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THE SENATE

Thursday, May 6, 1999

The Senate met at 2:00 p.m., the Acting Speaker, the Honourable Fernand Robichaud, in the Chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL ORGAN DONATION DISCUSSION DAY

Hon. Vivienne Poy: Honourable senators, at the end of April, National Organ Donation Discussion Day passed with little notice here in Canada. Most of us are not aware of this issue unless we have been personally affected by organ donation. For most Canadians, awareness never goes further than filling out organ consent boxes on a driver's licence or medical insurance card. Few of us realize that, in most cases, even if we were to die and wanted our organs to be donated, many things can occur to preclude the chance to be a donor.

The Standing Committee on Health in the other place held hearings this winter in order to delve into the reasons for, and solutions to, Canada's low organ donation rates. Our rates are among the lowest in the industrialized world at about 14 per million individuals. That means that only half the people waiting for transplants last year actually got them. One in four people awaiting a donor will die before they get a transplant. That is about 150 people this year. Unfortunately, the problem is becoming more serious, with waiting-lists for those awaiting transplants increasing by 50 per cent in the past five years.

Several factors are at the root of the problem. We have no national approach to organ donation because health care is provincially run. Each of Canada's provinces runs a separate system to identify potential donors, but there is no national coordinating body.

In Ontario, for example, the system has changed in recent years so that now you express your wish to donate organs when you get a new health card. The information is then printed on the back of the card. However, millions of Ontarians, myself included, do not have new health cards yet, and may not for a long time.

At the same time, the old system of including a donor card with one's driver's licence is not as simple as it once was. New Ontario driver's licences are a single card, so there is nowhere to attach the organ donor card. People such as myself fall through the cracks of the system and our wish to donate organs is not recorded anywhere. If my family did not know that I wanted to donate my organs in the event of death, I might not become a donor.

Another problem lies with training of medical staff. Doctors and nurses are often reluctant to ask grieving families to donate the organs of a loved one. Hospital staff are not properly trained to deal with the sensitive issue of approaching families. Even in those cases where someone has filled out an organ donation card, families must still be asked for consent. The question of training doctors and nurses to approach family members properly must be addressed.

In addition, there is not enough public awareness of the importance of organ donation. Families often do not know whether their loved ones would have wanted to donate their organs. When families know in advance the wishes of the potential donor, 96 per cent give consent to proceed with organ donation. In contrast, only about 50 per cent of families that are unclear of their loved one's wishes consent to donation of organs.

[*Translation*]

The Hon. the Acting Speaker: Honourable senators, I am sorry to interrupt the honourable senator, but her time is up. Does the honourable senator have leave to continue?

Hon. Senators: Agreed.

[*English*]

Senator Poy: I thank honourable senators.

The result of these shortcomings is missed opportunities to save lives. People die waiting for organ transplants, not because we lack the medical know-how to match donors to recipients, and not because Canadians are unwilling to make organ donations, but because of the shortcomings and disorganization of our system. The organs and tissue from one donor can help extend the lives of as many as 50 people, and only a small percentage of those who die — about 2 to 3 per cent — can actually be donors. This means that every potential donor that can be identified can make a huge difference to the lives of countless people.

The recommendations of the Standing Committee on Health must be acted on quickly if more Canadians are to be saved from unnecessary death. Key among the recommendations is the establishment of a national registry to match all brain-dead patients who can be potential donors to those requiring transplants. In this way, the organs could be used for transplantation without delay.

• (1410)

Another important recommendation calls for training special hospital staff to deal with the delicate step of approaching bereaved families to ask for consent to organ retrieval from deceased loved ones.

Finally, the committee's recommendation to pursue a public awareness campaign is essential to improving donation rates. Every Canadian needs to know that lives will be saved if he or she makes a positive decision about organ donation and conveys that decision to family members.

During the committee's hearings, members of Parliament heard how Spain has turned around its organ donation rates over the past 10 years. Spain used to have an organ donation rate comparable to Canada's. However, the rate is now one of the highest in the world at over 30 per 1 million inhabitants. Three times as many organs are being transplanted. Ninety per cent of Spaniards waiting for organs now receive them.

Canada and Spain have some differences, to be sure — geographic size being one of them — but we can learn a great deal from the Spanish experience. The cornerstone of Spain's program has been training and awareness. Training has been especially important in teaching hospital staff how to approach families. Now, each hospital ICU has a person in charge of organ donation. This way, the opportunity to save lives stemming from the tragic loss of one life is not missed. We need to implement a similar training program in this country.

Honourable senators, I share the government's commitment to improve health care and to save the lives of Canadians. A coordinated, nationwide approach to address the problems in our current system will save countless lives every year. The number of lives saved will continue to grow as our expertise in organ retrieval improves. We must act now. It is critical that the federal government provide funding to implement a national system of organ retrieval transportation and transplantation.

I look forward to the positive response of the Minister of Health to the report of the Standing Committee on Health in the coming weeks.

THE LATE FRANCIS V. BALDWIN

TRIBUTE

Hon. Wilfred P. Moore: Honourable senators, I rise to pay tribute to Francis V., or "Frank" Baldwin, a fellow Haligonian who departed this life on Friday, April 30, 1999, at 78 years of age.

Frank was known for his infectious enthusiasm, his great love of his church, St. Mary's Basilica, and the music which graced it, which was enhanced by Frank's fine tenor voice and his more than 40 years of membership in its choir. Mostly, however, he was known for his passion for the game of basketball. Indeed, Frank Baldwin was "Mr. Basketball" in Nova Scotia.

A member of the Nova Scotia Sports Heritage Hall of Fame and the Canadian Basketball Hall of Fame, Frank's coaching career began in a Halifax church league in 1939. In 1949-50, he coached Queen Elizabeth High School of Halifax to the national juvenile championship. In 1952, he moved to Saint Mary's University where he built the program from the ground up.

This past March, I spoke in this chamber in recognition of the Canadian Intercollegiate Athletic Union National Basketball Championship, won by Saint Mary's Huskies. That victory was one of the fine crop of successes which resulted from the seeds planted by Frank Baldwin in the early 1950s, and nurtured by him in the years following.

In 1963, he left Saint Mary's to work as director of the Canadian Martyrs Parish Centre. In 1971, he became the first provincial coach of the Nova Scotia Amateur Basketball Association. He was named the sport's provincial development coordinator soon thereafter, a position which he joyfully filled until his retirement in 1986.

Frank coached Nova Scotia's 1971 and 1975 men's Canada Games basketball teams, and was an assistant coach with our national team in 1975 and at the 1976 Olympics. He received the Merit Award from the National Association of Basketball Coaches for outstanding service to basketball in Canada.

Permit me to share with honourable senators the remarks made by others upon Frank's passing. Bob Hayes, the legendary athletic director of Saint Mary's University said:

Besides coaching at Saint Mary's, Frank coached two basketball teams at high school and managed the bookstore and canteen. I told him last week that Saint Mary's now has 300 people to replace you.

Bruce Reynolds, president of Basketball Nova Scotia, said:

There is no person who has done as much for basketball in the province of Nova Scotia. No one knew more about the game than Frank, and he had a completely unselfish way of sharing his knowledge, which he did out of love of the game and love for people in the game. He was like a Pied Piper of basketball. The sport has lost a builder without parallel and a friend without parallel. It's a sad day for basketball.

Brian Heaney, who coached at Saint Mary's after Frank, and had Frank with him as an assistant coach at the 1976 Olympics, recalling the man he describes as a true ambassador of the game, said:

He travelled worldwide and brought goodwill and concern for his fellow man. I'm sure he never left an enemy in the world. He was revered within the coaching community in Canada. To a man at the CIAU level, he had an enormous level of support and friendship. He will be sorely missed and wonderfully remembered.

Joel Jacobson, who worked with Frank at Sport Nova Scotia, and who is a Halifax newspaper columnist, said:

He put his heart and soul into basketball, and was very conscientious and worked long hours for the betterment of the game. A legend is gone.

Finally, Steve Konchalski, head basketball coach at St. Francis Xavier University and a former national men's team coach, who played against Frank's team at Saint Mary's in 1962, said:

He was a giant of a man. He never coached me, but he was still my coach — he had such a positive influence on my life. Frank was all about helping young people — he touched the lives of so many young people in so many ways — it's a legacy to us all.

It is with the utmost respect that we convey our deepest sympathies to Frank Baldwin's immediate family and to the legion of basketball players who benefited from his unselfish sharing of his knowledge and love of that game.

HUMAN RIGHTS

REVISION OF NAVAL SERVICE ACT

Hon. Calvin Woodrow Ruck: Honourable senators, in 1910, the government, under the leadership of Sir Wilfrid Laurier, passed the Naval Service Act, thereby creating, at least on paper, the Royal Canadian Navy. At that point in time, Canada did not possess any ships of her own. However, the British government came to the assistance of Canada and provided two aging warships, the *Rainbow* and the *Niobe*.

In due course, the rules and regulations as to who could serve in Canada's navy were drafted. The first rule explicitly stated, "All recruits must be members of the white race."

For quite some time I have been trying to find a copy of the revised act. It was allegedly revised at the end of hostilities in 1945. Today, I have been informed that the act has been revised, which would permit our First Nations people, blacks, Japanese, Chinese, et cetera, to join the Royal Canadian Navy. That is a major step forward.

I look forward to reading the revised copy of the act, which I understand is now available.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Standing Committee on Internal, Economy, Budgets and Administration, presented the following report:

Thursday, May 6, 1999

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRTY-THIRD REPORT

Your committee recommends that the Senators Travel Policy be amended as follows:

1. While travelling on Senate or public business a Senator and an alternate may claim living expenses within the maximum limits as determined by the Internal Economy Committee from time to time.

2. Senators travelling in their region on Senate or public business may claim expenses for kilometres driven at the rate approved by Treasury Board, provided that a quarter (1/4) point is deducted.

3. Treasury Board rates for private accommodation will apply to Senators while travelling on Senate or public business.

Respectfully submitted,

WILLIAM ROMPKY
Chair

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Rompkey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

DIMENSIONS OF SOCIAL COHESION IN CANADA— BUDGET REPORT OF COMMITTEE ON STUDY PRESENTED AND PRINTED AS APPENDIX

Hon. Lowell Murray, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, May 6, 1999

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

NINETEENTH REPORT

Your committee, which was authorized by the Senate on Thursday, June 18, 1998 to examine and report upon the dimensions of social cohesion in Canada in the context of globalization and other economic and structural forces that influence trust and reciprocity among Canadians, now requests approval of funds for 1999-2000.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

LOWELL MURRAY
Chairman

(*For text of appendix, see today's Journals of the Senate, Appendix p. 1575.*)

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

PRIVILEGES, STANDING RULES AND ORDERS

TENTH REPORT OF COMMITTEE PRESENTED

Hon. Shirley Maheu: Honourable senators, I have the honour to present the tenth report of the Standing Committee on Privileges, Standing Rules and Orders concerning the Moravian Church in America.

Thursday, May 6, 1999

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

TENTH REPORT

Your Committee, in accordance with Rule 108, and upon the request of its sponsor, the Honourable Senator Taylor, recommends the suspension of Rule 106 in connection with a proposed private bill intituled: "An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America."

Respectfully submitted,

SHIRLEY MAHEU
Chair

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Maheu, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF STANDING COMMITTEE AND SECRETARIES OF NATIONAL DELEGATIONS OF THE NATO PARLIAMENTARY ASSEMBLY, DRESDEN, GERMANY—REPORT OF CANADIAN DELEGATION TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the ninth report of the Canadian NATO Parliamentary Association which represented Canada at the meeting of the Standing Committee and the Secretaries of National Delegations of the NATO Parliamentary Assembly held in Dresden, Germany, March 26 to 28.

CANADA-CHINA LEGISLATIVE ASSOCIATION

REPORT OF VISIT OF CO-CHAIRS TABLED

Hon. Jack Austin: Honourable senators, I have the honour to table, in both official languages, the second report of the Canada-China Legislative Association regarding the first annual visit of co-chairs which took place in China and Hong Kong from March 27 to April 9, 1999.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Eugene Whelan: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have power to sit at 3:30 in the afternoon on Tuesday next, May 11, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

FISHERIES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau: Honourable senators, I give notice that on Tuesday next, May 11, 1999, I will move:

That the Standing Senate Committee on Fisheries have power to sit at 5:30 p.m. on Tuesday next, May 11, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

STATUS OF PALLIATIVE CARE

NOTICE OF INQUIRY

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, pursuant to rule 57(2), I hereby give notice that on Tuesday next, May 11, 1999, in recognition of National Palliative Care Week, I will call the attention of the Senate to the status of palliative care in Canada.

QUESTION PERIOD

CANADIAN HERITAGE

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL— STATEMENTS BY MINISTERS —REQUEST FOR CLARIFICATION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the disarray amongst ministers and in the cabinet regarding Bill C-55 becomes more evident day by day.

Yesterday the *National Post* reported that, according to the Minister of International Trade, Canadian and American negotiators had come to what he had called an honourable deal following a number of concerns raised by the Americans regarding certain features of Bill C-55.

Today, a day later, the *Post* has an article headlined "Copps contradicts Marchi on Magazine Legislation." The *Post* reports the Minister of Canadian Heritage as saying that negotiations are stalled. The International Trade Minister, in the same article, says that talks continue on both sides. Surely something as simple as meetings between officials of two countries can be confirmed as either taking place or not taking place.

Could the minister, who is responsible for explaining to us the policy of the government, tell us exactly the status of the talks between the two sides? Is there an honourable deal, or is there not?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, we are currently reviewing options to resolve this matter based on recent discussions between Canadian and U.S. officials. As the Minister of Canadian Heritage has said, if the Americans make suggestions that are in keeping with the spirit of Bill C-55, Canada is prepared to listen.

Senator Lynch-Staunton: Are discussions going on presently between both sides to come to an honourable deal, if an honourable deal, despite what the Minister of International Trade told us yesterday, has not already been reached?

Senator Graham: I am not aware that discussions are going on specifically at the present time.

Senator Lynch-Staunton: Honourable senators, why is it that we must get answers through the press? According to *The Globe*

and *Mail* today, the spokesman for the Canadian Magazine Publishers Association said:

Our understanding is that there is so far no deal and the two sides in fact have not agreed on the key issue of Canadian content.

Is that an accurate statement? Is the government willing to accept as a compromise in Bill C-55 an element of Canadian content which foreign publishers wishing to enter the Canadian market must follow to be qualified to do so?

Senator Graham: If the Honourable Senator Lynch-Staunton is asking me to confirm a statement by an official that there is no deal, I would confirm that statement.

Senator Lynch-Staunton: Honourable senators, it was not an official who said there was no deal; it was a party who was directly interested in the deal, the Canadian publishers.

My final question is: What is the government's position on Canadian content? The Minister of Canadian Heritage, as reported in today's *Post* said we are waiting to see if they will deliver on a commitment to respect majority Canadian content. That is fairly clear. That is reported today, May 6.

Yet, in a letter from the same minister to the President and Chief Executive Officer of the Association of Canadian Advertisers dated April 21, and included in the brief which they presented to the Standing Senate Committee on Transport and Communications this morning, she says this about Canadian content:

• (1430)

You also suggest a minimum Canadian quota for all magazines, both foreign and domestic, circulating in Canada. Such a measure would unduly restrict consumer choice — Canadians want to continue to have access to a broad range of magazines. The intent of our cultural policy is not to make all foreign magazines resemble Canadian magazines, but to preserve a space for Canadian ideals, alongside foreign ones.

That was the Minister of Heritage, who only two weeks ago said that Canadian content had no place in Bill C-55. Yet today, from the quotations, she has taken a completely opposite stance by saying that we are waiting to see if they will deliver on a commitment to respect majority Canadian content.

The question is simple: What is the policy of the Canadian government regarding a compromise on Bill C-55 which may or may not include a Canadian content provision?

Senator Graham: Honourable senators, *The Globe and Mail* quoted Minister Copps as saying that the table is now set for the Americans to come up with a firm proposal in respect to majority Canadian content, and if they do that she said:

I'll be very happy to take that back to cabinet and back to Parliament.

Senator Lynch-Staunton: What is the government's position? Surely individual ministers are not devising Canadian policy and ignoring cabinet consultation. Does the Canadian government not have a policy on the requirement of Canadian content in Bill C-55? What would be the requirement? Are we waiting for the Americans to write the appropriate amendment which will then be taken to cabinet, or are we waiting for the government to stand up and say, "It is either this or the bill goes through next week," as the committee intends to do?

Senator Graham: Honourable senators, I just quoted and affirmed what Minister Copps said, that if a firm proposal in respect to majority Canadian content is brought forward, she will bring it to her cabinet colleagues and thence to Parliament. Minister Copps will appear, as scheduled, before the committee Tuesday next.

HEALTH

MARKETING STRATEGY TO PROMOTE ADVANTAGES OF SYSTEM IN ATTRACTING BUSINESS—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

On April 20, Senator Keon delivered a brilliant speech on the present state of the Canadian health care system. While laudatory of many of the efforts initiated by the government, his words came with several recommendations which this government would do wise to consider. I should like to call the honourable leader's attention to one of the paragraphs which reads:

Another factor that we often fail to recognize is that our single payer health system has significant economic advantages. In fact, our publicly financed health system is one of the main factors that helps us to keep competitive in the global marketplace and provides Canadian business with a substantial competitive advantage. A report prepared by the former Premier's Council on Economic Renewal in Ontario found that business in Illinois, Michigan, New York, California and Ohio was spending approximately 2.5 times more than those in Canada's largest province for medical benefits, workers' compensation, unemployment insurance and social security. That should be a major selling point in attracting business to Canada, but is not generally recognized, or at least appropriately advertised.

Can the Leader of the Government, in light of Senator Keon's remarks on the appeal of Canada's superlative health care system in comparison with that of the United States, tell us what measures the federal government has undertaken to advertise our medical system and benefits as incentives to bring business to Canada?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware that the government itself has undertaken specific measures. However, I do know that

companies and, indeed, provincial and federal governments and their agencies, in attempting to attract to Canada businesses and talented people who can add to the productivity of our country, often speak of the tremendous benefits available under our health care system.

I recall very well, after the last budget, the chairman of the National Medical Research Council, who had visited me on two previous occasions to request additional funding for medical research, saying that Mr. Martin's budget of that specific day was absolutely scintillating.

While I am on my feet, I should like to commend Senator Keon for taking the initiative to launch this inquiry, which I believe is a very useful initiative. Senator Atkins spoke yesterday on this inquiry, and I hope that others will do likewise.

Senator Oliver: Can the honourable leader tell us whether or not the government has a marketing strategy to promote the benefits of our medical system as a way of attracting business?

Senator Graham: Honourable senators, I should like to inquire of my colleagues in the appropriate portfolios of trade and industry as to the specifics of any particular promotion.

I am aware that some provinces, as well as some of our universities, use our health care benefits when attempting to attract the best talent they can get in the teaching field. They have described, and I have been told this specifically, the benefits of our medical system as one of the attractions for coming here to work.

Specifically, if I can add further to the question, I will be happy to do so.

INDUSTRY

SHIPBUILDING—DEVELOPMENT OF NATIONAL POLICY—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. My question concerns a policy resolution passed by the Liberal Party in 1993 at their biannual convention. The resolution read:

Be it resolved that the Liberal Party of Canada urge the federal government to develop immediately a national shipbuilding policy to support this industry with a view to maintaining and advancing the degree of excellence and the technologies for which we are historically renowned and which we are in jeopardy of losing.

That resolution was sponsored by the New Brunswick wing of the federal Liberal Party.

Could the government leader advise us why, after such an eloquent resolution endorsed by his own party, the government has failed to bring in a national shipbuilding policy that would support this industry?

Hon. B. Alasdair Graham (Leader of the Government): That is a very good question and one in which all honourable senators would be interested. Canada's shipbuilding policy is consistent with our approach to other industrial sectors.

I should point out that the Government of Canada provides support to the shipbuilding industry in a variety of ways. There has been an accelerated capital cost allowance for Canadian-built ships. We have provided a 25 per cent tariff on most non-NAFTA ship imports. There is a domestic procurement policy by the federal government, there is Economic Development Corporation financing for commercially viable transactions, and there is a very favourable research and development tax credit system and access to key PC programs.

SHIPBUILDING—LACK OF ORDERS FOR YARDS—COMPETITION FROM OTHER COUNTRIES—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, if the government has such a tremendous policy and program in place, as just elaborated by the government leader, could the minister explain why it is that the order books of Canadian shipyards are empty while those in Europe are full?

Could the minister explain why the Saint John shipyard bid on 50 contracts last year, lost every single one of them, and now faces closure by the end of this year?

Could the Leader of the Government in the Senate explain why U.S. shipyards have won 26 international contracts in recent years, while Canadian yards do not seem to be getting to first base?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the direct and the fairest answer to that question is that shipbuilding in other countries is heavily subsidized. As no Canadian industry benefits from a direct subsidy program, it would be unfair to create one for the shipbuilding industry at the present time. That matter is under review.

• (1440)

Like many other countries of the Organization for Economic Cooperation and Development, Canada is out of the so-called "subsidy business." Rather, our role is to level the playing field by continuing our efforts to eliminate foreign subsidies and remove market barriers.

"Subsidizing up," which is the technical term, would be at a considerable cost to Canadian taxpayers and would not eliminate the substantial overcapacity that currently exists in the shipbuilding industry. "Negotiating down," on the other hand, is a complex and very difficult issue that cannot be solved in the short term. However, we will continue to try, through the OECD and the World Trade Organization, to pursue negotiations and encourage the United States, particularly, to update the Jones Act

in line with North American Free Trade Agreement and World Trade Organization principles.

SHIPBUILDING—POSSIBILITY OF ATTRACTING SHIPS TO OPERATE UNDER CANADIAN FLAG—GOVERNMENT POSITION

Hon. J. Michael Forrestall: As a final supplementary, could the Leader of the Government in the Senate tell us whether the government has pursued with any firmness and commitment a program that might attract back to Canadian registry the large number of substantial vessels that are now registered offshore for tax purposes? We could offer a fair amount by way of attraction to the owners of such vessels in the sense that we would be losing nothing because they are not paying any taxes in Canada to begin with.

Hon. B. Alasdair Graham (Leader of the Government): If I could add further information to what I have already said, I would be very happy to bring it forward.

NATIONAL REVENUE

INCOME TAX—BASIC PERSONAL EXEMPTION—INFLUENCE ON NUMBER OF LOW-INCOME EARNERS ON TAX ROLL—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Yesterday, he boasted about taking 600,000 low-income earners off the tax rolls. Will the government leader confirm that most of those 600,000 people would not be on the tax rolls if the basic personal exemption had been fully adjusted to inflation over the last five years?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I cannot answer that question with certainty. I believe the government is correct in saying that 600,000 people were removed from the tax rolls, but I should be happy to seek further clarification.

Senator Stratton: Honourable senators, the arithmetic is easy to do, and it would determine that they would not be, had they been properly indexed.

INCREASE IN TAX REVENUE—INFLUENCE ON DEFICIT—GOVERNMENT POSITION

Hon. Terry Stratton: The Honourable Leader of the Government also boasted about reducing the deficit. Will the government leader confirm that a \$41-billion jump in revenues since 1993 is the major reason for the \$42-billion drop in the deficit?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the actions of this government and of the people of Canada have successfully reduced the deficit from \$42 billion under the previous government to a surplus of \$3.5 billion in the last budget.

HUMAN RESOURCES DEVELOPMENT

REDUCTION OF EMPLOYMENT INSURANCE PREMIUM—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, the Leader of the Government also spoke of \$16 billion in tax relief. Will he confirm that unless there is a substantial reduction in EI premiums, the government will overcharge employers and employees by roughly the same dollar amount over the same period? Put another way, will he confirm that the so-called "tax cuts" in last year's budget are being paid for entirely by the government's refusal to lower EI premiums?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the fact is that the government has lowered EI premiums to \$2.55.

Senator Lynch-Staunton: A pittance. The government has also cut benefits to allow the surplus to increase.

NATIONAL REVENUE

STATEMENTS BY PRIME MINISTER AND MINISTER OF INDUSTRY ON TAX POLICY—REQUEST FOR CLARIFICATION

Hon. David Tkachuk: Honourable senators, I should like to return to comments made by Minister Manley and Prime Minister Chrétien. On Tuesday in Question Period, the Leader of the Government in the Senate said that he agreed with the Prime Minister's comments in the House of Commons on Monday.

Mr. Manley, in an interview with *The Ottawa Citizen*, made a number of comments. I want to know with which comments the government leader agrees and with which comments he does not agree.

Senator Taylor: True or false!

Senator Tkachuk: Mr. Manley said that he would like to benchmark Canada to the United States on taxation levels. He said that our current personal income tax structure promotes Canadians moving south. He also said that we should try to create a level playing field because our tax rates are too high.

Perhaps the government leader could comment on how he disagrees with Mr. Manley.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not disagree with Mr. Manley. He has put his position forward. We have all agreed that one of the objectives of this government is to lower taxes, and we are systematically doing that. We will continue to do so, and that is a commitment of the Government of Canada.

Senator Tkachuk: I accept the proposition that my honourable friend believes that we are lowering taxes. Senator

Stratton aptly pointed out that the government's tax cuts are being paid for by a special tax on workers and businesses.

The Honourable Senator Graham said in this chamber over the past two days that he thought taxes were too high. In the House of Commons, the Prime Minister made a fairly rigorous defence for not reducing income taxes. Mr. Manley, speaking in *The Ottawa Citizen*, said that our taxes are too high and that we should develop some parity with the United States. He said it was a problem with productivity. We are hearing different messages that, I am sure, are confusing the Canadian public as much as confusing senators on this side of the chamber.

Could the minister comment on the points Mr. Manley raised in *The Ottawa Citizen*? Does he agree or disagree with them? Can he tell us exactly what his government's tax policy entails?

Senator Graham: Honourable senators, our tax policy is to reduce taxes as much as possible and to increase productivity among all Canadians.

Mr. Manley is quite correct — and I think we all agree — that we would like to lower taxes further. However, at the same time, given that we have higher taxes than in the United States, I think it is also fair to say that we live in a better and more secure environment than those in the United States. We have a better medicare system. We have the best medicare system in all of the world. That costs us a little more money.

As well, we have the best education system. Compare the cost of going to university in Canada with the cost of going to university in the United States.

We live in a much more secure environment than those in the United States. That may cost us a little more, but it is worth it to be a Canadian and living in Canada.

Senator Tkachuk: Honourable senators, I disagree with the minister on almost all of his points, not because I do not think Canada is a great place to live, but because we can make it a better place to live. To give us arguments such as the high cost of education and the fact that we have the best education system in the world is simply not true.

Perhaps our high tax rates pay for a system that is not as efficient or does not give the value to Canadian citizens that it should. We have low productivity and our children are leaving the country. We would like to have the Prime Minister, Mr. Manley, Mr. Martin and the Leader of the Government in the Senate put forth an income tax plan or a tax reduction plan for the rest of the country so that we may all plan our lives accordingly.

Senator Graham: Honourable senators, I wish to draw to the attention of Senator Tkachuk a recent KPMG report which ranked Canada number one among G-8 countries in terms of business costs.

Senator Tkachuk: Not if our dollar continues to go up.

Senator Graham: There is a question of what level the dollar should be at to best serve Canadians. Let me remind you that, with respect to the recent report, Canada's ranking has improved dramatically since 1994. In 1994, Canada was ranked twentieth in the world.

• (1450)

Senator Lynch-Staunton: By whom?

Senator Graham: That is the ranking by KPMG. We are now ranked tenth.

This government has implemented policies that have focused on improving both the macro-economic and the micro-economic environments. Investment in research and development is important for productivity growth and competitiveness. The government has taken action on this front with programs such as Technology Partnerships Canada and the Canadian Foundation for Innovation.

I could go on and on, but I am sure all senators appreciate the benefits of living in this country. We appreciate the strength of the dollar and the fact that interest rates have gone down 25 basis points. We appreciate that job creation is on the upswing and that the Canadian public, businesses and governments have worked together to create 1.6 million new jobs since 1993. We have the lowest unemployment rates.

Senator Lynch-Staunton: Thanks to Mike Harris!

Senator Graham: The unemployment rates in the last government, when Senator Tkachuk's party was on this side of the house, were over 11 per cent. They are now down to 7.8 per cent under a Liberal government.

Some Hon. Senators: Hear, hear!

FOREIGN AFFAIRS

MEETING OF G-8 FOREIGN MINISTERS— POSSIBLE ANNOUNCEMENT ON RESOLUTION OF CONFLICT IN YUGOSLAVIA—REQUEST FOR INFORMATION

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate. Today, the G-8 foreign ministers were smiling when they came out of their meeting. The whole world must be anxiously awaiting news on whether they have been able to craft a diplomatic and political solution to the war in Kosovo. Is the minister in a position to give updated or fresh information to the Senate to give us higher hopes for a political end to this war?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I can give an updated statement, which was released just before I came into the chamber by the chairman of the G-8 foreign ministers meeting, the foreign minister of Germany. If there is agreement of the Senate, I could read it.

Hon. Senators: Agreed.

Senator Graham: The statement reads as follows:

1. The G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo;
- Withdrawal from Kosovo of military, police and paramilitary forces;
- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives;
- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo;
- The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations;
- A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region; and the demilitarization of the UCK;

The UCK is the liberation army. It further states:

- Comprehensive approach to the economic development and stabilization of the crisis region.
- 1. In order to implement these principles, the G-8 Foreign Ministers instructed their Political Directors to prepare elements of a United Nations Security Council resolution.
- 2. The political directors will draw a roadmap on further concrete steps towards a political solution to the Kosovo crisis.
- 3. The G-8 Presidency will inform the Chinese government on the results of today's meeting.
- 4. Foreign Ministers will reconvene in due time to review the progress which has been achieved up to that point.

If it is the wish of the Senate, I could table this report in both official languages.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Roche: I thank the government leader for that answer. I certainly would welcome the tabling of that document.

UNITED NATIONS

CONFLICT IN YUGOSLAVIA—POSSIBILITY OF SUMMIT
MEETING OF SECURITY COUNCIL—GOVERNMENT POSITION

Hon. Douglas Roche: Honourable senators, what leaps out at first glance from the statement of principles which the leader has just read are the words “an interim framework agreement” and, second, the role of the Security Council and the United Nations, perhaps as a whole, now coming back to centre stage. Certainly that is a position which Canada is instrumentally placed to advance.

I should like to turn the minister’s attention to what we might dare to hope will be the post-Kosovo war situation that perhaps is about to begin. In the context of the United Nations and Canada’s role as a member of the Security Council, would the Leader of the Government give serious consideration to a point I raised in passing yesterday; namely, in building the structure and the security architecture for peace, the United Nations should meet at the summit level.

There has only been one meeting of the summit of the United Nations in its entire history. That was on January 31, 1992, just as the post-Cold War era began.

We are now at another turning point in world history. The remnants of Kosovo must be put back together in the interests of peace in Europe and the world. Would the Canadian government advance the idea of a summit level meeting of the Security Council to build a framework that all regions of the world can support?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that would be a suitable course in due time. There remains a great deal of difficult work to be done. The principles set out in the foreign ministers’ communiqué remain at a fairly high level of generality. There are still disagreements which must be resolved to implement the principles. Required practical measures include decisions on the size, composition, role and command arrangements of the international security/military presence. Would Yugoslavian forces remain in Kosovo as part of any peace settlement? Would the NATO air campaign be suspended before the withdrawal of Yugoslav forces or as part of the withdrawal?

Beyond that, of course, it remains to be seen whether Milosevic will accept the proposal, even as it has Russian support.

I should emphasize that Canada has played an active role in the three different fora which are available. Those fora are: the United Nations and its contacts through the Security Council, NATO, the G-8 summit and all the contacts made by Minister Axworthy. I understand he played a leading role in the discussions that took place at the G-8 meeting today.

With respect to a UN summit, I am sure that would be considered down the road. To activate the decisions or the recommendations that have been taken today, a meeting of the

UN Security Council would have to be called as a first step in order to pass the resolution.

ORDERS OF THE DAY

EXTRADITION BILL

THIRD READING—MOTIONS IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the third reading of Bill C-40, respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence,

And on the motions in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., that the Bill be not now read a third time but that it be amended:

1. in clause 44:

(a) by replacing lines 28 and 29 on page 17 with the following:

“circumstances;

(b) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner; or

(c) the request for extradition is made for”; and

(b) by replacing lines 1 to 6 on page 18 with the following:

“(2) Notwithstanding paragraph (1)(b), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the Minister that the death penalty will not be imposed, or, if imposed, will not be executed, and where the Minister is satisfied with those assurances.”.

2. in Clause 2 and new Part 3:

(a) by substituting the term “general extradition agreement” for “extradition agreement” wherever it appears;

(b) by substituting the term “specific extradition agreement” for “specific agreement” wherever it appears;

(c) in clause 2, on page 2

(i) by adding after line 5 the following:

“extradition” means the delivering up of a person to a state under either a general extradition agreement or a specific extradition agreement.”;

(ii) by deleting lines 6 to 10;

(iii) by replacing line 11 with the following:

““extradition partner” means a State”;

(iv) by adding after line 15 the following:

““general extradition agreement” means an agreement that is in force, to which Canada is a party and that contains a provision respecting the extradition of persons, other than a specific extradition agreement.”;

“general surrender agreement” means an agreement in force to which Canada is a party and that contains a provision respecting surrender to an international tribunal, other than a specific extradition agreement.”;

(v) by replacing lines 20 and 21 with the following:

““specific extradition agreement” means an agreement referred to in section 10 that is in force.

“specific surrender agreement” means an agreement referred to in section 10, as modified by section 77, that is in force.”;

(vi) by replacing lines 29 to 31 with the following:

“jurisdiction of a State other than Canada; or

(d) a territory.

“surrender partner” means an international tribunal whose name appears in the schedule.

“surrender to an international tribunal” means the delivering up of a person to an international tribunal whose name appears in the schedule.”

(d) on page 32, by adding after line 6 the following:

PART 3

SURRENDER TO AN INTERNATIONAL TRIBUNAL

77. Sections 4 to 43, 49 to 58 and 60 to 76 apply to this Part, with the exception of paragraph 12(a), subsection 15(2), paragraph 15(3)(c), subsections 29(5), 40(3), 40(4) and paragraph 54(b),

(a) as if the word “extradition” read “surrender to an international tribunal”;

(b) as if the term “general extradition agreement” read “general surrender agreement”;

(c) as if the term “extradition partner” read “surrender partner”;

(d) as if the term “specific extradition agreement” read “specific surrender agreement”;

(e) as if the term “State or entity” read “international tribunal”;

(f) with the modifications provided for in sections 78 to 82; and

(g) with such other modifications as the circumstances require.

78. For the purposes of this Part, section 9 is deemed to read:

9. (1) The names of international tribunals that appear in the schedule are designated as surrender partners.

(2) The Minister of Foreign Affairs, with the agreement of the Minister, may, by order, add to or delete from the schedule the names of international tribunals.”

79. For the purposes of this Part, subsection 15(1) is deemed to read:

15. (1) The Minister may, after receiving a request for a surrender to an international tribunal, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the surrender partner, an order of a court for the committal of the person under section 29.”

80. For the purposes of this Part, subsections 29(1) and (2) are deemed to read:

29. (1) A judge shall order the committal of the person into custody to await surrender if

(a) in the case of a person sought for prosecution, the judge is satisfied that the person is the person sought by the surrender partner; and

(b) in the case of a person sought for the imposition or enforcement of a sentence, the judge is satisfied that the person is the person who was convicted.

(2) The order of committal must contain

(a) the name of the person;

(b) the place at which the person is to be held in custody; and

(c) the name of the surrender partner.”

81. For the purposes of this Part, the portion of paragraph 53(a) preceding subparagraph (i) is deemed to read:

"(a) allow the appeal, if it is of the opinion"

82. For the purposes of this Part, paragraph 58(b) is deemed to read:

"(b) describe the offence in respect of which the surrender is requested;" and

(e) by renumbering Part 3 as Part V and sections 77 to 130 as sections 83 to 136; and

(f) by renumbering all cross-references accordingly."

Honourable senators, I rise to participate in the debate on Bill C-40, in particular on the amendments proposed by Senator Grafstein. I should like to begin by concurring in the point well made by Senator Graham in his intervention to the effect that this has been a first-class debate. It has been an excellent debate which speaks to the careful and thoughtful study that all honourable senators have given to this important piece of legislation.

The right to life is a human right and is recognized not only in domestic law but also, as we and others have mentioned, in international law. Indeed, it is also a cornerstone to whatever system of philosophical or theological justification of human rights one might wish to advance.

Honourable senators will recall the appeal of a distinguished Quebec member of the other place. Indeed, he is a member of the party of our friends opposite. I speak of Clifford Lincoln. He said that a right is a right is a right. So it is with the right to life. It is a human right, and that this right has found expression in both domestic and international law is quite appropriate.

In terms of international human rights law, I have found persuasive the arguments which have been made to date in this debate to the effect that Bill C-40 meets the legal requirement of international human rights law and Canada's legal treaty obligations thereto. However, unless we are all legal positivists; unless we all find ourselves in the tradition of a Thomas Hobbes or a Jeremy Bentham, some of us might well look to analyses for the foundation of human rights and the right to life other than that which is in positive law, domestic or international.

I suggest to honourable senators that in the history of ideas we can find in the tradition of humankind great respect and great steps taken to recognize the right to life. One recalls, for example, in the classical story told by Sophocles in *Antigone*, of how the king had laid down the edict that the body of Polynices, who had offended the king and was executed, was not to be buried. The brave lady Antigone contravened the king's edict and buried her brother, so she was brought before the king and challenged for going against the edict of the king. What did she say? She replied that not to have done so would have been to violate the "unwritten statutes of heaven" which she declared are "not of today or yesterday, but from all time, and no man knows when they were first put forth." "Not through dread of any human pride," she said, "could I answer to the gods for breaking these."

• (1510)

In other words, the conflict between positive law and conscience, or what some have framed as the conflict between positive law and natural law, has been experienced and debated in fora like this one ever since the time of Sophocles.

Honourable senators, the detailed analysis of Bill C-40 and the proposed amendments, such as has been reflected in the debate on the floor of the Senate, is a credit to all who have participated thus far. Comments and questions have been helpful.

Honourable senators, the bill deals with extradition. Some of the earliest references to extradition can be found in the time of ancient Egypt. Early treaties concluded by the Egyptians, such as one concluded in 1291 B.C. between Rameses II of Egypt and Haltusile II of the Hittites, provide examples of the early recognition of interstate needs such as extradition.

Yesterday, our colleague Senator Wilson drew our attention to some human rights considerations, especially as these rights find expression in the international human rights instruments of the United Nations. Earlier, my colleague Senator Andreychuk outlined, among other important considerations, the decision adopted by the United Nation's Human Rights Commission. Reference had earlier been made by Senator Joyal to the decision of the Human Rights Committee, which has responsibility for the administration of the International Covenant on Civil and Political Rights.

In terms of the rule of law within the context of the United Nations and international law, we are pleased that such attention is once again being given to the standard of international law, for that is the context within which the Kosovar human rights tragedy must be resolved.

Honourable senators, the right to life is a human right. When we reflect upon the nature of human rights in law, and in particular in international human rights law, it is well to remind ourselves of the distinction between civil and political rights, such as the right to life, and the other equally human rights, the economic, social and cultural rights, for the latter are human rights which stand as a goal to be achieved, generally progressively, whereas a civil and political right, such as the right

However, it seems to me that the opportunity to examine the technical dimensions of the question are somewhat impaired by the rigidity which the rules of the Senate imposes upon us. A senator can speak for 15 minutes and then, with some extension, comments and questions are limited. The forum is not the best of forums, in particular if we are in a situation similar to the one in which we find ourselves with regard to this question, namely, one involving moral judgment, philosophical assessment or logical assessment. It is an issue which, in and by itself, would seem to demonstrate that a piece of legislation such as this would be voted upon on the basis of conscience or a free vote. This is not the kind of bill that would lend itself to a partisan whip.

The point I wish to make is that we get into an important and often highly technical debate at third reading, and do quite well within the constraints that are imposed by a debate in the Senate itself.

These proposed amendments that are before us are serious, and they are technically complex. In terms of text, the two specific amendments are longer than many bills that have passed through this house. If one agrees with the principle underlying the amendments — for instance, the amendment concerning the international tribunals — then one would want to be confident that the wording is technically sound. This type of work — that is, analysing the technical wording clause by clause — can only be completed in an effective and efficient way in committee.

In terms of proposed section 47, which speaks to the matter of ministerial discretion, I wondered whether or not the committee situation would not have been a better venue in which to examine it, as the amendment proposed by Senator Grafstein suggests. It is an amendment that speaks to trying to see whether we can circumscribe better the manner in which ministerial discretion could be exercised.

A further consideration is the matter that arose in which His Honour the Speaker participated. There were two issues: first, the issue of our two official languages in terms of process; and, second, the norm that we would find to be appropriate, as legislators, in consulting with members of the judiciary. As honourable senators know, His Honour has undertaken to give further study to that issue. That may constitute a desire, for example on the part of the Minister of Justice, to be able to come back to the committee to straighten out that issue by way of a reappearance before the Standing Senate Committee on Legal and Constitutional Affairs.

Honourable senators, for all those reasons, I believe that Bill C-40, together with the two amendments, would best be handled at this stage by referring it all back to the committee for review and report.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Therefore I move, seconded by the Honourable Senator DeWare:

That the bill be not now read a third time but that it be referred back to the Standing Senate Committee on Legal

and Constitutional Affairs, together with the proposed amendments, for further consideration.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt this motion?

Some Hon. Senators: No!

Hon. Jerahmiel S. Grafstein: Honourable senators, while I very much appreciate the most thoughtful speech of Senator Kinsella and his equally thoughtful motion to refer Bill C-40 and my amendments back to the Standing Senate Committee on Legal and Constitutional Affairs, it would now be inappropriate. The committee has already opined negatively on the principles of the amendments. The Senate has now debated the amendments for three weeks at third reading. In fact, the Senate has acted as a virtual Committee of the Whole. I believe, honourable senators, that the issues are soundly joined, thanks in no large measure to the various excellent and informative speeches and questions by senators on all sides.

This debate reminds me that sometimes the Senate can be a dangerous place. The Senate can become dangerous and deadly when we take into our hands the questions of life, death and punishment, all in the name of justice. So it is with Bill C-40, the Extradition Bill, where the Minister of Justice legislates to keep in her hands a discretion to decide whether a criminal or a fugitive should be extradited to a state which punishes capital offences by death, without assurances that that person not face the ultimate penalty, the death penalty, which Canada abolished in 1976, over 20 years ago.

What an awesome, time-consuming, case-by-case discretion the minister has left for herself. Tuesday, in an eloquent speech by Senator Graham supporting the minister's contentions, he presented an adage that the search for perfection sometimes drives out the good. I could not agree more with the honourable senator. Senator Graham accused me of seeking perfection. I should tell the honourable senator that this allegation will come as a very great surprise to my wife, amongst others! However, the adage simply does not apply in this case. On the contrary, the more appropriate adage here might be that by supporting these amendments, pragmatism would support principle.

It is now established in all of Western Europe, in each state of Western Europe, that each state will not extradite a criminal or a fugitive facing the death penalty to a death penalty state without obtaining satisfactory assurances that the death penalty will not be imposed. In fact, in France, a French court in the *Einhorn* case several years ago, insisted, as a pre-condition for extraditing the convicted wife-killer back to the state of Pennsylvania, that assurances be made that the death penalty would not be imposed. The French court went further and demanded a further assurance: Because of the lapse of time — some 20 years — that a new trial be held in Pennsylvania. In that instance, the state of Pennsylvania not only provided those assurances but also passed a special act of the Pennsylvania state legislature granting that convicted killer a new trial, and then he was returned to the United States.

The reason I say that the minister has left for herself a deadly, onerous task is that the Court of Appeal of British Columbia in the *Burns and Rafay* case made it absolutely clear that if such assurances are not obtained by the minister, each case must be dealt with on its individual merits. In effect, the Minister of Justice and Attorney General of Canada has relegated to herself an onerous judicial role which is judging each case, case by case, each on its individual merits. What a choice! How will she decide? In which case will she exercise her discretion not to seek assurances? Who will live and who will die?

• (1520)

Honourable senators, how awesome and consuming, since it is a matter of life and death. If there is a heavy case-load, this burden could place on the minister an intolerable load, particularly because she is always so assiduous, and has been so assiduous, in the exercise of all her duties and responsibilities.

As for the safe haven scenario as presented by the proponents of this measure, they argue strenuously, but not factually, that Canada would become a *de facto* safe haven for murderers or fugitives, and thus could arise a danger to public safety. The proponents argue that if no assurances could be obtained, then under Canadian law a convicted murderer or fugitive from the United States, for example, would be let loose and at liberty in Canadian society. However, there is not a scintilla of evidence presented by any proponent that indicates such would be the case.

Indeed, last Tuesday, I asked the Leader of the Government in the Senate, Senator Graham, who supported the bill, if there is any case, just one case, where assurances were sought and not obtained so that such convicted killers or fugitives would not be extradited and set at liberty in Canada. He could not point to one case, nor could Senator Andreychuk, who appears to be supporting this measure as well — nor could any proponent.

In the *Burns and Rafay* case, a case in which two 18-year-old Canadian citizens were extradited by the former minister of justice to the United States from British Columbia without seeking assurances, the Court of Appeal of British Columbia quashed that extradition. That case is now awaiting a decision from the Supreme Court of Canada on appeal.

The reasons of the majority in the British Columbia Court of Appeal rendered by the Honourable Mr. Justice Donald and the Honourable Chief Justice McEachern are most instructive. Mr. Justice Donald wrote these words in that case, recognizing that it dealt with 18-year-old Canadian citizens:

The Minister appears to be stating policies to hold back an imagined parade of fugitive murderers in Canada. In doing so he set too high a test for the application of article 6 of the Treaty.

In that instance he was referring to the extradition treaty.

Later, in that same judgment, Mr. Justice Donald quotes Madam Justice McLachlin of the Supreme Court of Canada as saying:

Another relevant consideration in determining whether surrender without assurances regarding the death penalty would be a breach of fundamental justice is the danger that if such assurances were mandatory, Canada might become a safe haven for criminals in the United States seeking to avoid the death penalty. This is not a new concern. The facility with which American offenders can flee to Canada has been recognized since the 19th Century.

That decision then references the rather infamous *Cotroni* case.

I was reminded, honourable senators, that since Confederation, successive governments have always argued precisely the position put forward by the minister, that by having a different, higher legal standard in Canada, we might establish a safe haven. Yet, on the facts of the case before us in Bill C-40, there is no clear or present danger that this might be the case; nor is there any evidence of a threat to public safety.

While all of us can share the alarmist, popular concerns of the minister and the proponents of the bill, the Senate must employ a reality check. This reality check says that based upon the uncontested evidence before the Senate, there is no clear and present danger that Canada will, as a result of these proposed amendments, become a safe haven or create a danger to public safety in the sense suggested by the minister or the Leader of the Government in the Senate.

Turning to that aspect of the amendments dealing with the fast-tracking of war criminals, here we uncover a most interesting paradox. The proponents of the bill would deny even a possible, even a putative safe haven for convicted criminals or fugitives respecting the death penalty. Almost in the same breath, proponents are then prepared to allow alleged war criminals, those who have allegedly committed crimes against humanity, even genocide, a double standard of protection: that is, all the Charter protections in Canada, added to the parallel protections, those Charter-like protections, that have been built most carefully into the international tribunals on Rwanda and Yugoslavia.

There is no disagreement about having a different, faster track for surrendering war criminals to international tribunals. We are in ardent agreement with the ministry. Officials of the Justice Department, as Senators Graham and Andreychuk have confirmed, and as the evidence has made clear, have said that this is exactly the intention of the government. They intend a different track in the future. The only question is when.

Government officials and those supporting the bill say that changes will be made when the Treaty of Rome creating the new international tribunal is ratified. As I have pointed out earlier in this debate, Rome was not built in a day. Years could pass before that treaty is ratified. No one can give any assurances when it will be ratified. Therefore, by implication, senators supporting this bill unamended should understand that they may be voting for *de facto* justice delayed — justice delayed yet again, and again, even after taking into account the factual, unfortunate and deplorable history that Canada has had concerning its record of bringing war criminals to justice. This bill, unamended, promises more of the same.

Honourable senators, if you choose to support these amendments, Canada would move smartly ahead to match our rhetoric abroad with our so-called principles at home.

On another point, may I bring to the attention of honourable senators that in the United Kingdom, when the war crimes legislation came up in the British Parliament earlier in this decade, free votes were allowed, even when there was no issue of capital punishment involved. It was just war crime legislation. By unbroken precedent, I take this measure to be a free vote, as has always been the case in Parliament.

Honourable senators, these amendments are about justice. In *Deuteronomy*, chapter 16, verse 20, we find these words:

Justice, justice, shall ye follow.

For over five millennia, commentators and sages attempted to interpret these words. "Why should the word justice be repeated twice?" they asked. One of the many explanations commends itself to me. The word justice is repeated twice. The first is in reference to the letter of the law, while the second is to the spirit of the law. We are admonished to follow not only the principle but the spirit of the law — justice and mercy.

Obviously, this is a personal matter for each senator. I decided to propose these amendments so that our principles would match our practices. This is not perfection. This is practicality. Should the amendments not carry, I will not support Bill C-40.

Last week, we all applauded President Havel of the Czech Republic who argued most passionately and persuasively that the individual is more important than the state. I should like to quote from that speech. He said, in part:

Human rights rank above the rights of states. Human liberties constitute a higher value than state sovereignty. In terms of international law, the provisions that protect the unique human being should take precedence over the provisions that protect the state.

Honourable senators, do these amendments not lend themselves precisely to his thesis?

• (1530)

I should like to quote as well Mr. Trudeau in 1976 when capital punishment was debated widely in the other place, and ultimately abolished in Canada.

I say that, Mr. Speaker, not from any desire to be morbid or melodramatic, nor from any desire to try to absolve the cabinet, in advance, of its share of responsibility for the taking of human life in the future, if this bill is defeated. I say it in order to impress upon the house as strongly as I can that what we will actually be deciding when we vote on this bill is not merely how the law of the land will be or written, but also whether some human beings will live or die. This may have been done, honourable senators, even in the most miserable case of Mr. Ng.

I again thank Amnesty International and the Criminal Lawyers Association whose impetus, precision and assiduous efforts formed the inspiration for these amendments.

In conclusion, I thank all honourable senators who have demonstrated, by this extensive debate, if nothing else, that the Senate remains true to its constitutional mandate and the vision of the founding Fathers of Confederation: That the chamber is sober, deliberate, dispassionate, a chamber of second sober thought.

I thank Senator Joyal, who independently came to the same views that I had regarding this bill and whose articulate support of these amendments added a breadth and depth of experience well beyond my own.

Hon. A. Raynell Andreychuk: Would the honourable senator accept a question at this time?

Senator Grafstein: Certainly.

Senator Andreychuk: The honourable senator indicated that he has chosen a fast track route and that those of us who disagreed with having a fast track will somehow be harbouring war criminals. We believe that we should not get into a fast track until we have all the safeguards and guarantees in place so that we do not send someone to an improper death.

The honourable senator is making the assumption that the fast track will, in fact, be faster. Is it not a possibility that because it will be such virgin territory, compared to the existing extradition process and the jurisdictional decisions that have already been found, there will be so many appeals that it may turn out not to be faster?

Senator Grafstein: That is a possibility, but I do not believe it is a probability.

Amnesty International has looked at this question very carefully, not only here but in other jurisdictions. Canada was very careful when we established the international tribunal in Yugoslavia, for example, to ensure that all of the Charter-like safeguards were incorporated. As well, the minister has said that when we ratify the other bill respecting the international war tribunal, we will be able to deal with it at one time. It is a question of timing.

My view, and I think this is supported by Amnesty International and the Criminal Lawyers Association, is that there might be some challenges, but essentially we are saying to an individual who is an alleged war criminal, "The elements of the Charter are there to protect you." We have the Charter at the international court. They are able to raise all the Charter-like protections. None are missing.

In effect, an alleged war criminal could say, "I want a preliminary trial here," with all the difficulty and delay and time that that would particularly take, when Canada has clearly demonstrated we are not able to do or prepared to do that appropriately. We helped set up a special international court with all those protections built in, and, in effect, we say, "You will have those protections when you go before that particular court."

Having a preliminary trial here, if you will, with all the difficulties of witnesses and time, effort and energy, and then to replicate that in a wider sense in a full trial later on, to my mind would be providing a time consuming *de facto* double protection to war criminals.

I am sensitive to the fact, as are all honourable senators, that we do not want to treat Canadians differently, but the Charter says the principles of Charter protection are the issue. All those principles are incorporated into the international tribunal at The Hague now. Why give an alleged war criminal who has all the opportunity to obtain every Charter defence two kicks at the can? For the last 50 years, the Department of Justice and the courts of this country have demonstrated they precisely do not want to pursue war crimes.

Amnesty International, the Criminal Lawyers Association and the ministry all agree. They ministry has just said, "Not for now. Wait until Rome, wait for the Rome treaty." As I said, Rome was not built in a day, and there is no reason why these amendments cannot go forward now so that we can do expeditiously what we have not been prepared to do for the last 50 years, bring war criminals speedily to justice.

That is the substance of my amendments, and they are not mine alone. It is not just my personal view. That view is shared by Amnesty International and the Criminal Lawyers' Association and, of course, my colleague Senator Joyal.

On motion of Senator Lynch-Staunton, debate adjourned.

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the seventeenth report (interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "A Blueprint for Change" (Volumes I, II and III), tabled in the Senate on December 2, 1998.—(Honourable Senator Stewart)

Hon. David Tkachuk: Honourable senators, I rise today to resume debate on the seventeenth report of the Standing Senate Committee on Banking, Trade and Commerce entitled "A Blueprint for Change."

I apologize to honourable senators. I was away last week. I thank Senator Kinsella and Senator Stewart for allowing this item to remain on the Order Paper and making up for my negligence.

This report is in response to the MacKay task force report that we tabled in the Senate on December 2, 1998. I will speak specifically to and highlight a number of issues, including those which Senator Stewart raised last week on automobile leasing, as well as banks selling insurance, foreign ownership annuities, and some other issues that were studied in great detail in the report and by the Banking Committee.

Our report is available in three volumes. It totals some 300 pages. We held approximately 32 meetings, heard over 200 witnesses and received submissions from another 39 witnesses. I and most of the members on the committee believe that it was a comprehensive report with recommendations to the government that they should listen to and pursue, and I urge all honourable senators to read at least the executive summaries.

Senator Stewart was correct in saying we did not reach consensus on all points. Therefore, the report was not totally unanimous, but it does represent the majority view of the committee members. In particular, regarding automobile leasing and banks selling insurance where our viewpoints diverge from MacKay, we included the positions of the witnesses. We did not arrive at our recommendations lightly.

Let me say here that our report was an attempt to aid our government in making the decisions it must make to ensure our financial service sector remains healthy and forward thinking into the next century. I am in agreement with the recommendations made in the report and hope that Minister Martin will give our recommendations strong consideration.

• (1540)

Competition was a central theme in our study, especially on how to allow banks to be more competitive. We were greatly concerned that the only competition now comes from Canada Trust, the co-op movement, Laurentian Bank and foreign banks. There were not too many other large financial institutions of stature in this country that were ready to give competition to our six major banks. Hence, I believe that is why the minister did not allow the merging of those banks.

I am not here to discuss whether those banks should merge or should not, and that was not where the committee's interest lay. What we did try to do is study what was possible, and find a way in which the government could increase competition in the banking sector. It was the central theme of our study.

All the financial sector CEOs who appeared before us told us that their intentions were to consolidate within their own industry, but globally we are also witnessing consolidation across the traditional pillars: banks with insurance companies. At the same time, there are other companies not traditionally part of the financial services sector which are getting into the business. Honorable senators have probably noticed that when they receive in the mail all those new credit card applications, they are not necessarily from banks, nor from other financial institutions; they are new entrants to the market to give competition in the credit card industry. The financial landscape will be very different in the 21st century.

One of the more controversial aspects of the report was auto leasing. We had two such aspects: auto leasing and the insurance brokerage industry, which comprises the liability and comprehensive home and casualty insurance business. Of course, this is a very political issue, and we were quite cognizant of the fact that in each federal constituency in this country there is probably anywhere from 200 to 300 brokers out there, selling casualty and property insurance.

At the same time, there are many automobile dealers out there who were very concerned about the banks' entrance into the leasing market. We listened to them and we tried to focus on the consumer. It is fair to say that all of us, even though some of us may not have agreed with each other on certain aspects of the recommendations in the MacKay task force report, were focused at all times, not only on the business aspects but also on consumer needs and consumer desires.

Our final recommendation on auto leasing reads:

The policy choice...is between adopting a course of action, which evidence before the Committee strongly suggests would benefit consumers through lower prices, and a course of action that calls for maintaining the current policy. The latter would ensure that the manufacturers' finance companies (principally outside of Canada) have limited competition and therefore would likely continue to charge higher prices than the U.S. Given the choice, the Committee recommends that banks be given the power to lease-finance automobiles under the conditions which meet the concerns of automobile dealers...

You can find that in the report. I will not read the whole of that to you because it was quite extensive.

Under these conditions, banks will be solely in the business of providing a financial service and, therefore, not permitted to be in the business of dealing in new or used automobiles.

That was our fear, that banks would get into the business of buying and selling automobiles, which is, in effect, what a leasing company does on behalf of its client. Consumers will benefit from having more choice, and our lending institutions will still be in the business of lending financial services, not used cars.

The second major issue on which the committee heard much testimony was that of banks retailing life insurance. Life insurance is a wealth management service, so logic would dictate that banks would be in this area of business and offer life insurance products throughout their branches. It was important for the committee to consider what the future holds for both banks and insurance companies. The pillars are changing rapidly and adjustment takes a bit of time, as different pillars get into the same business.

When considering the interests of the consumer and the fact that all Canadians know that the insurance companies will be demutualizing over the next couple of years, the committee wished to ensure that a level playing field existed between the different players.

The committee recommended that one class of life insurance product, annuities, should be able to be offered by banks immediately. This is something that the MacKay task force report did not even go into. Our report is quite comprehensive. Annuities should be able to be offered only to the same consumers who purchased RRSPs from their banks, and once the RRSPs mature. In this way, the consumer has a choice.

It should be noted that banks do sell life insurance: They sell life insurance on loans and on mortgages right within their branches, and banks do own life insurance companies that sell life insurance independently rather than through the bank branches.

The committee also believed that the insurance industry needs time to adjust to the changes currently taking place through demutualization, and the gaining of access to the payments system before facing competition from the banks, who will be retailing insurance products from their branches. Therefore, the committee recommended that there be a time for adjustment, and that the prohibition on banks retailing life insurance be maintained for a period of two years. I should like to make it clear that banks can own life insurance companies, and do.

One last point on insurance, specifically property and casualty insurance: We did not share the viewpoint of MacKay that this should be treated the same as life insurance. We recommended that deposit-taking institutions should be prohibited from selling property and casualty insurance because it is regarded as a pure risk product. It is not something you wish to collect, like an annuity. It is something you wish to pay, and never collect. It is not a wealth management product. Deposit-taking institutions can still sell property and casualty insurance through a subsidiary, as many are doing today.

We differed as well from the MacKay task force on the question of ownership. The task force recommended that the term "widely held" be defined as 10 per cent ownership, with limited provisions to go to 20 per cent, subject to ministerial approval. We are talking about banks here.

The Banking Committee believes that ownership is different from control, and thus proposed that no individual or group should own more than 20 per cent of voting shares and 30 per cent of that institution's total equity. This would afford financial institutions more flexibility for alliances, mergers and acquisitions. Ministerial approval would be unnecessary as long as the institutions could meet the fit and proper test.

I should like to quote my colleague Senator Meighen, who spoke before the conference on the same issue as I am talking about here. I was tempted to copy his whole speech because it was well done. He talked about the problems that politicians face today in studying and regulating the financial sector. As of today, politicians have only studied the issues of financial service modernization, and have not taken any concrete steps to change the legal and regulatory framework. It has been seven years since any major financial revisions have been made, yet it is obvious to everyone that there have been dramatic changes in the sector.

Honourable senators, the MacKay task force report was long overdue. However, their recommendations have been with the minister since last fall. We reported on December 2, 1998, in this chamber and all the chips are now on the table. The future is now, and it is time for this government to take responsibility for guiding the direction of a currently healthy financial services sector, but one that needs a new and proper framework in which to operate.

The GE Capitals and Microsoft companies of the world move with a great degree of flexibility today, something which our own institutions do not have unless we make the necessary legislative changes. Overall, the questions of what is good for Canadians and Canadian businesses must override everything.

• (1550)

We have been witnessing the Liberal government's style of trial balloons and lack of vision since 1993. Our report contains views ranging across all the pillars of the financial services sector as well as those expressed by Canadian academics.

Over the course of our study, we looked for a vision for the next century. Our response to the MacKay task force is the beginning of a vision. I look forward to discussing future legislation that will come from the government and the leadership, and I hope it will come forth sooner rather than later.

We have heard some disturbing reports on the question of foreign bank competition, that the government will not allow a level playing field in which our domestic banks might operate. This is not the way to go about the business of providing competition in the market-place. It is not what the MacKay task force recommended. It is certainly not something for which we on this side would wish.

I should like to close my remarks by leaving you with some thoughts on this matter. The role of the Senate is very important to studies of this kind. We all agree that the amount of work our committee put towards at times a tedious and boring piece of work was necessary and very important for the consumers in this country. In the global village in which we live, strong directions and measured decisions must be taken.

Honourable senators, as I stated at the beginning of my speech, there are many recommendations to consider. There are many issues I have not touched upon. I shall not pursue them at this time; however, I hope the government will act soon.

On motion of Senator Carstairs, for Senator Stewart, debate adjourned.

SHIPBUILDING INDUSTRY

LACK OF GOVERNMENT SUPPORT—INQUIRY— DEBATE ADJOURNED

Hon. J. Michael Forrestall rose pursuant to notice of May 4, 1999:

That he will call the attention of the Senate to the federal government's lack of a national shipbuilding policy to support this industry with a view towards maintaining and advancing the degree of excellence and the technologies for which Canadians are historically renowned and in jeopardy of losing.

He said: Honourable senators, I rise today to lead off the inquiry of which I gave notice on Tuesday, calling on the government to develop a national shipbuilding policy, to support

this industry with a view towards maintaining and advancing the degree of excellence and the technologies for which we are historically renowned and which, I believe, we are in jeopardy of losing.

At the end of World War II, Canada had the third largest navy in the world, a very large fleet of Canadian flagged merchant vessels. While thanks to the policies of the previous government, we now have world-class frigates in our navy, although I might add, without helicopters, we have virtually no Canadian flagged merchant vessels.

Canadian shipbuilding at its peak employed almost 12,000 people. It is not unrealistic to think that there were an equal number of spin-off jobs. We can conclude that about 24,000 workers were productive, contributing to society and employed directly and indirectly in the shipbuilding industry in Canada.

I believe Canada is now at its lowest point in relation to shipbuilding that we have ever experienced. The Canadian shipbuilding industry employs roughly 4,000 people across the country, fewer than were employed in Digby and Yarmouth Counties in the building of wooden vessels not that long ago.

Honourable senators, we must develop new policies in this area before the industry dies out. A new and effective shipbuilding policy would benefit Canadians from coast to coast. As honourable senators know, we have shipyards in British Columbia, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

As ships being built today are highly computerized, more ships being built would mean more opportunities to use the high-tech skills and products that have been developed in Canada in our yards. Studies indicate that the economic benefit of an infusion of \$100 million in shipbuilding would result in 1,500 new jobs in the industry and related industries.

I should like to describe briefly four measures that would almost immediately stimulate shipbuilding.

• (1600)

First, allow newly constructed ships built in Canada to be exempt from the present Revenue Canada leasing regulations. Lease financing has become a predominant method of financing significant capital items. Revenue Canada has substantially reduced the annual amounts of depreciation as deductions from taxable income in lease financing. The effect is to ship depreciation in the early years to the later years of the useful life of the ship. That counters the actual economies of owning and operating a ship, thereby increasing the operating costs of Canadian ships. By excluding Canadian-built ships from lease financing rules, existing depreciation rates applicable to ships would apply without restriction and the tax incentive of owning and leasing vessels would be eliminated. Honourable senators, major items of capital equipment are already exempt from existing Revenue Canada leasing regulations. I can think immediately of computers, rail-cars, trucks and many other large cost items.

Second, the adoption in Canada of a program similar to the Title XI program in the United States, which provides federal government guarantees of private sector financing or refinancing obligations for the construction of U.S. flag vessels in U.S. yards over a specific term. The National Shipbuilding and Shipyard Conversion Act of 1993 extended the availability of Title XI financing guarantees to foreign shipowners and to shipyard modernization projects, which has enabled U.S. yards to sell ships on the international market.

The Canadian shipbuilding industry is calling for the Canadian government to guarantee private sector debt financing, fixed interest rates comparable to those available to the large and financially strong corporations, long-term amortizations of up to 25 years or more, and financing up to 87.5 per cent of project cost.

Third, develop a refundable tax credit system for Canadian shipowners and builders. I will expand a bit on that a little later on.

Four, make some changes to NAFTA. The Jones Act of 1920 legislates that cargo carried between U.S. ports must be carried aboard U.S. ships that are U.S. built, U.S. registered, U.S. owned, U.S. crewed and repaired, and serviced exclusively by U.S. firms. This legislation was exempted from NAFTA and effectively prevents Canadian shipbuilders from building a ship that could be used in the U.S. domestic trades while allowing U.S. shipyards the right to sell to the Canadian market new or used ships and barges, duty free. We should work towards eliminating this exemption.

Indeed, the Senate is currently dealing with Bill C-55, and when we talk about such things, we ask ourselves: Are they related to culture or are they related to trade? Here is a clear question of something related to trade, and it is exempted.

I want to elaborate for a minute or two on what I believe could be an effective method of using the tax credit system and other tax measures to encourage the development of a shipbuilding industry in Canada. Honourable senators, many of you may recall that a dozen or so years ago, quite an effort was put forward by the shipbuilding industry to use tax incentives to grant upwards of 120 per cent credits for repeated lifts for overhaul purposes of Canadian-owned but offshore registered vessels were they to be brought back into Canadian registry.

The government could forgo 120 per cent of taxes in the first year after new ship construction and run this amount down to 50 per cent in the fifth year. This could be done for every vessel constructed in Canadian shipyards. If a firm were to do one, two or three ships, we might very well look at this formula and sweeten it just a little more. In other words, it is not money that we are losing, because this business all goes offshore in any event.

There could be 50 per cent tax relief to a vessel that is in Canada for a repair or overhaul for a series of years following the overhaul. If a company, as I have just suggested, builds a second vessel in a Canadian shipyard within five years of the first being

built, or when the first ship is overhauled in the same yard where it was built, further tax relief to be given for a period of years could be negotiated.

Honourable senators, we have 70 or 80 ships which rightfully should be Canadian flagged vessels, but which are presently registered offshore. With incentives to build and overhaul in shipyards on both coasts and in the river, Canada could be looking at the creation of upwards of 10,000 jobs.

The government, in partnership with all participants in the shipbuilding industry, should look as well at the refurbishing of existing yards — perhaps a major yard in each province — to ensure that we can accommodate the increased industry. By that I mean the modernization of these yards, such as technology, computerization, automation and all of the steps that have been taken by successful yards around the world; yards which have proven they can make money for their stakeholders in the shipbuilding industry.

In order to help with the costs of refurbishing shipyards to accommodate new construction, repair and overhaul, the writedown for the capital cost allowance on new machinery should be increased. Shipyards suffer a very distinct disadvantage in this regard. Indeed, firms refuse to go ahead with modernization of their plant and equipment because of that very cost.

Honourable senators, we should be advertising our shipbuilding skills to our allies — our ability to build first-class military vessels. We should be selling our skills and our fine workmanship to the world, not sitting on our hands with the view that since we are no longer building ships, we do not need an effective shipbuilding policy.

In closing, I would be somewhat remiss if I did not deal specifically with one other aspect of seafaring life in Canada — the small number of young people in Canada who now choose the sea as a way of life. When the Special Committee on Transportation Safety and Security was in Halifax, we heard from all the major shipping lines. We heard that fewer and fewer Canadians are choosing the sea as a way of life. In fact, our aging maritime workforce was noted as a growing safety problem.

The federal government, in partnership with the provinces, the unions and craft guilds, should look at the re-establishment of national maritime training schools. We should also determine what needs to be done to upgrade existing schools. These schools have a vital role to play in the revitalization of the shipbuilding industry in Canada.

Honourable senators, I know these proposals will cost some money, but most of them are financed through the tax credit system, forgiving taxes that we would not have collected in any event because the ships are not being built here, nor are they paying taxes, nor do they intend to unless we take positive steps to lure them back under the Canadian flag and back into the Canadian yards. It will take a national commitment, and the lead must come from the federal government.

I look forward to the interventions of other honourable senators in this debate. I suggest to you that it has a sense of timeliness right now. It is an area in which we could move very quickly, and an area which would return almost immediate profit to Canada.

On motion of Senator DeWare, for Senator Bolduc, debate adjourned.

[*Translation*]

ADJOURNMENT

Leave having been given to revert to Government Motions:

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, May 11, 1999, at 2:00 p.m.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, May 11, 1999, at 2:00 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)

Thursday, May 6, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications	98/04/02	four	98/05/27	98/06/18	20/98
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20	98/06/11	12/98
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	three	97/12/16	98/05/12	06/98
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11	98/05/12	09/98
							Senate agreed to Commons amendments		
							98/05/06		
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19	98/06/11	13/98
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none	98/06/02	98/12/03	33/98
S-21	An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts	98/12/01	98/12/03	Whole	98/12/03	one at 3rd	98/12/03	98/12/10	34/98
S-22	An Act authorizing the United States to preclear travellers and goods in Canada for entry into the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health	98/12/01	99/02/11	Foreign Affairs	99/03/24	four	99/04/28		

S-23	An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier	98/12/10	99/02/03	Transport and Communications	99/03/11	none	99/03/16
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GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/12/16	Committee of the Whole 97/12/17	none	97/12/18	97/12/18	40/97	
C-3	An Act respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts	98/09/30	98/10/22	Legal and Constitutional Affairs	98/12/08	none	98/12/09	98/12/10	37/98
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26	Agriculture and Forestry	98/05/14	five	98/05/14	98/06/11	17/98
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26	Aboriginal Peoples	98/06/09	none	98/06/18	98/06/18	25/98
C-7	An Act to establish the Saguenay-St. Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02	Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97
C-8	An Act respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas	98/03/17	98/03/25	Aboriginal Peoples	98/03/31	none	98/04/01	98/05/12	05/98
C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/12/09	98/03/26	Transport and Communications	98/05/13	none	98/05/28	98/06/11	10/98

C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/08	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology	98/06/04	none	98/06/08	98/06/11	11/98
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05	98/06/03	Transport and Communications	98/06/10	none	98/06/11	98/06/11	16/98
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/06/08	Social Affairs, Science & Technology	98/06/18	none	98/06/18	98/06/18	26/98
C-20	An Act to amend the Competition Act and to make consequential and related amendments to other Acts	98/09/24	98/11/17	Banking, Trade and Commerce	98/12/03	none + two at 3rd	98/12/10 Commons amendments referred to Committee 99/02/11	99/03/11	02/99
C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none	98/03/31	98/03/31	04/98

C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-27	An Act to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements	99/04/21	99/04/27	Fisheries	—	—	—	—	—
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98

C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	98/03/26	98/03/31	02/98
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26	—	—	—	98/03/31	98/03/31	03/98
C-35	An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act	98/12/07	99/02/17	Foreign Affairs	99/03/24	none	99/03/25	99/03/25	12/99
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998	98/05/28	98/06/08	National Finance	98/06/15	none	98/06/17	98/06/18	21/98
C-37	An Act to amend the Judges Act and to make consequential amendments to other Acts	98/06/11	98/09/22	Legal and Constitutional Affairs	98/10/22	eight	98/11/04	98/11/18	30/98
C-38	An Act to amend the National Parks Act (creation of Tuktut Nogait National Park)	98/06/15	98/06/17	Energy, the Environment and Natural Resources	98/12/01	none	98/12/10	98/12/10	39/98
C-39	An Act to amend the Nunavut Act and the Constitution Act, 1867	98/06/03	98/06/08	Aboriginal Peoples	98/06/09	none	98/06/10	98/06/11	15/98
C-40	An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence	98/12/02	98/12/10	Legal and Constitutional Affairs	99/03/25	none			
C-41	An Act to amend the Royal Canadian Mint Act and the Currency Act	98/12/02	98/12/09	National Finance	99/02/18	none	99/03/02	99/03/11	04/99
C-42	An Act to amend the Tobacco Act	98/12/02	98/12/08	Legal and Constitutional Affairs	98/12/10	none	98/12/10	98/12/10	38/98
C-43	An Act to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence	98/12/08	99/02/10	National Finance	99/03/18	none	99/04/27	99/04/29	17/99
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	28/98
C-46	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	29/98
C-47	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	98/06/11	98/06/16	Banking, Trade and Commerce	98/06/17	none	98/06/18	98/06/18	23/98
C-49	An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management	99/03/09	99/04/13	Aboriginal Peoples					
C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs	99/03/04	none	99/03/09	99/03/11	05/99

C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24	98/12/03	32/98
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09	98/12/10	36/98
C-55	An Act respecting advertising services supplied by foreign periodical publishers	99/03/16	99/03/24	Transport and Communications 99/03/25	99/02/18	none	99/03/02	99/03/11	03/99
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/03/17	none	99/03/18	99/03/25	09/99
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications	99/02/16	none	99/02/18	99/03/11	01/99
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	—	—	—	—	—
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	—	—	—	98/12/09	98/12/10	40/98
C-61	An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act, and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof	99/03/16	99/03/18	Social Affairs, Science & Technology 99/03/23	99/03/23	none	99/03/24	99/03/25	10/99
C-65	An Act to amend the Federal-Provincial Fiscal Arrangements Act	99/03/11	99/03/16	National Finance	99/03/23	none	99/03/24	99/03/25	11/99
C-73	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	99/03/17	99/03/23	—	—	—	99/03/24	99/03/25	14/99
C-74	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/03/17	99/03/24	—	—	—	99/03/25	99/03/25	15/99
C-76	An Act to provide for the resumption and continuation of government services	99/03/24	99/03/24	Committee of the Whole 99/03/25	99/03/25	none	99/03/25	99/03/25	13/99

COMMONS PUBLIC BILLS

No.	Title	1st 98/11/17	2nd 99/02/11	Committee	Report	Amend. 99/03/11	3rd 99/03/16	R.A. 99/03/25	Chap. 16/99
C-208	An Act to amend the Access to Information Act	98/10/02	97/10/22	Social Affairs, Science & Technology	99/03/11	none	99/03/16	99/03/25	16/99
C-220	An Act to amend the Criminal Code and the Copyright Act, (profit from authorship respecting a crime) (Sen. Lewis)	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	adopted recommend Bill not proceed	98/06/09	98/06/18	27/98
C-410	An Act to change the name of certain electoral districts	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	two	98/06/09	98/06/18	27/98
C-411	An Act to amend the Canada Elections Act	98/12/07	98/12/09	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	18/98
C-445	An Act to change the name of the electoral district of Stormont-Dundas	98/05/28	98/06/04	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	07/99
C-464	An Act to change the name of the electoral district of Sackville-Eastern Shore	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	08/99
C-465	An Act to change the name of the electoral district of Argenteuil-Papineau	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/09	99/03/11	06/99

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the 'Persons Case' (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3) 98/10/01		
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03	none	referred back to Committee to 98/09/24		
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/12/09	one			
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs	98/05/14	seven +	98/06/09	Motion for 2nd reading negatived in the Commons 99/04/13	
S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology		two at 3rd	98/06/10	Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02	
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples					
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18	four	Report & Bill withdrawn 98/12/08		
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs					
S-19	An Act to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)		98/06/18						
S-24	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Beaudoin)		99/03/03						
S-26	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)		99/03/10						

S-27	An Act to amend the Canada Elections Act (hours of polling at by-elections) (Sen. Lynch-Staunton)	99/03/16
S-28	An Act to amend the Canada Elections Act (hours of polling in Saskatchewan) (Sen. Andreychuk)	99/04/20
S-29	An Act to amend the Criminal Code (Protection of Patients and Health Care Providers) (Sen. Lavoie-Roux)	99/04/29

PRIVATE BILLS

S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.) <i>(Dropped from Order Paper pursuant to Rule 27(3)98/11/17) (Restored to Order paper 99/04/15)</i>	98/06/17	99/04/20	Banking, Trade and Commerce	99/05/04	none	99/05/05
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03	three	99/03/25
S-25	An Act respecting the Certified General Accountants Association of Canada (Sen. Kirby)	99/03/04	99/03/23	Banking, Trade and Commerce	99/04/20	two	99/04/22

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(HANSARD)

Tuesday, May 11, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, May 11, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL NURSING WEEK

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I rise today to draw your attention to National Nursing Week, celebrated from May 10 to 16, 1999. The purpose of National Nursing Week is to increase awareness among public policymakers and governments. The theme for this year's week is: "Older persons and nurses — partners for healthy ageing." This year's theme is a reminder of the increasing number of older individuals in society, and the contributions that nurses make to better health and quality of life.

Nurses are front-line workers in our health care system. A nurse is often the first person we see when visiting a doctor's office or an emergency room. This new trend is one that registered nurses have long lobbied for, and can be characterized as direct access to nursing services. Direct access means the public can choose a registered nurse as their health care provider without having to go through another professional or having to be admitted to a hospital or other health care facility. With this new trend, we are likely to see more and more nurses as the main proponents of our primary care that will be, in my view, to everyone's benefit.

Let me provide honourable senators with two examples of direct access. A mother with a sick child phones a paediatric hot line. A nurse answers and gives the mother advice about fever control and how to manage other indications. The nurse would then check in by phone with the mother a few hours later. In this case, an unnecessary emergency room visit is averted.

In the second case, an elderly widower who is waiting for a placement in a nursing home is visited by the nurse on the community assessment team of a long-term facility. After a thorough assessment, the nurse determines that he would benefit from support in the home while awaiting admission and helps him to make the arrangements.

This innovation has the potential to have a positive impact on the medical care in this country. In the midst of these positive changes, however, there are levels of dissatisfaction among the members of the nursing profession, due in part to a failure at all levels of government to include nurses in the process of reform to our health care system. If we are to sustain quality care in Canada, the input of the nursing profession must be included every step of the way.

Annual nursing statistics released yesterday by the Canadian Institute of Health Information exemplify this situation. Their

data show that an increasing number of nurses are leaving the profession. Fewer young people are viewing nursing as a viable career option, and more nurses are settling for casual and part-time work that often leads to increased insecurity. One study commissioned by the Canadian Nursing Association in 1997, concludes that unless specific, targeted measures were implemented in the short term, Canada would face a shortage of 56,000 to 113,000 nurses by 2011.

Based on this and other information, honourable senators, it is clear that the recruitment and retention of nurses needs to be front and centre on the health care agenda.

NATIONAL PALLIATIVE CARE WEEK NATIONAL NURSING WEEK

Hon. Thérèse Lavoie-Roux: Honourable senators, I am pleased to rise today in recognition of National Palliative Care Week and National Nursing Week.

Palliative care is an approach to health care that seeks to improve the quality of life for people who are living with life-threatening illnesses. Palliative care is aimed at the relief of suffering. Central to its philosophy is the holistic focus on the family. Support is given to the patient as well as to the family members and caregivers, since there are many facets to experiencing suffering. In regard to palliative care, comforting goes well beyond the traditional curative model of practice.

[Translation]

Honourable senators, palliative care promotes the principles vital to ensuring the welfare of the terminally ill and their family. They serve to ease, indeed eliminate, the physical pain that can usually be controlled with the proper knowledge. In addition, they represent a commitment to intervene with the person as a whole, to reduce spiritual, existential and psychological distress caused by the fear of death and the loss of a loved one.

The palliative care team thus helps the patient and the families or caregivers to deal with the threats and uncertainties that arise as a result of the illness.

[English]

Honourable senators, as we all know, Canadians are living longer, and the proportion of the population over the age of 65 is steadily increasing. Although palliative care is by no means restricted to the elderly, the vast majority of palliative care services are consumed by older adults. Due to an ageing population, therefore, and to the projected increase in the incidence of cancer and chronic illness, a significant increase in the demand for palliative care services is predicted. Furthermore, Statistics Canada predicts that there will be an increase in overall health demands due to population trends.

[Translation]

The members of the Senate received recently — on March 4, 1999 — a letter from the President of the Canadian Palliative Care Association, Jacqueline Fraser, alerting us to the lack of palliative care representation on the boards of Canadian health research facilities. Funding for research into palliative care currently represents less than one per cent of total annual funding for health care research facilities, although palliative care is becoming increasingly important in our health care.

Following the work of the Special Senate Committee on Euthanasia and Assisted Suicide, I can conclude confidently that palliative care remains one of the most humane solutions for those facing the issues of the end of a life.

[English]

On the occasion of National Palliative Care Week, let us recognize the importance of this resource of such value, and encourage the development and efforts to enhance palliative care in Canada.

There has been a significant increase in the development of palliative care services since we made our report public five years ago in June. One of the key players in palliative care, whether in the hospital, a facility or at home, is the nurse. Since this week is also National Nursing Week, we have occasion to recognize the important social contribution which nurses make to the lives of Canadians.

The theme of National Nursing Week this year is "Older Persons and Nurses — Partners for Healthy Ageing." Nursing plays a significant role in the delivery of health care throughout the life course. The bond between nurses and older people is a life-long partnership which develops not from age 50 or 60, but from birth through adolescence and adulthood. Nursing touches our lives at many stages and we have nurses to thank, to a great degree, when we have the good fortune to attain healthy old age. I am pleased to have this occasion today to underline their great contribution to society.

In Canada, there are 260,000 registered nurses who provide committed, caring services to millions of Canadians. In every province, however, with the exception of Newfoundland, the number of nurses relative to the population is decreasing. Furthermore, there are predictions of severe nursing shortages of between 59,000 to 113,000 nurses by the year 2011.

Honourable senators, will it be possible to meet the nation's health demands? Even now, we are aware of shortages of nursing care, and of the stress being placed upon nurses to meet greater health demands.

[Translation]

In a recent article, Jean-François Bégin writes in *La Presse* that, and I quote:

The nursing profession is going through a dark period in Canada at the moment, and the future does not look like it

will be much more brighter without vigorous government intervention.

In the article, the President of the Canadian Nurses Association, Ginette Lemire-Rodger, notes, and I quote:

Nurses find themselves no longer able to give the care they feel they should.

[English]

The nursing strikes in Newfoundland, British Columbia and Saskatchewan are instances of extreme measures which serve, at the very least, to alert us to the severity of the problem of exhausted and frustrated nurses.

The Hon. the Speaker: I regret to interrupt the honourable senator but her allotted time has elapsed.

Is permission granted for her to continue?

Hon. Senators: Agreed.

Senator Lavoie-Roux: Thank you, honourable senators.

Evidently, health care restructuring and budgetary cuts have not been without casualty. The quality of health care available to Canadians is a source of pride for our nation. How can we ensure that it will be given top priority? How can we ensure that all Canadians, regardless of where they live or what they can afford, have access to nursing and palliative care services which meet their needs? Are we creating the conditions that welcome policy reform to improve the delivery of health care in our communities?

Seven years ago, the Palliative Care 2000 report announced 117 recommendations, including the development of at least 16 regional palliative care centres in Canada to act as teaching, research and consultation units for the entire health region and to act as a base for specialized palliative home care, the development of a compulsory and tested palliative care curriculum in all health care professional schools, and the development of palliative care as a certified specialty in both nursing and medicine.

On the occasion of National Nursing Week and National Palliative Care Week, let us reflect upon these questions and, above all, let us commend the excellence in care in spite of often difficult conditions. Let us celebrate the contributions being made today toward enhancing the well-being of Canadians.

NATIONAL NURSING WEEK

Hon. Marian Maloney: Honourable senators, I also rise today to recognize the valuable contributions of Canadian nurses. These unsung heroes are the primary caregivers in our overtaxed health care system. They are the force and heart of health care in Canada today. The contributions made by these individuals should be recognized every day. However, it is this week that the public officially recognizes their contributions.

The week of May 10 through May 16 is National Nursing Week, and this year Canada's registered nurses have focused the week on the International Year of the Older Person. In doing so, activities are planned throughout the country to increase awareness of the health needs of older adults, providing practical information about health issues and available resources, and raising public awareness of the needs of our diverse and aging population.

There are well over 200,000 front-line nurses in Canada actively caring for those in need. The devotion of these nurses, sometimes working in difficult circumstances, are worthy of national recognition and congratulations.

We salute you all.

INDIAN AFFAIRS

DISCUSSION ON MUSQUEAM LEASEHOLDER ARRANGEMENT

Hon. Gerry St. Germain: Honourable senators, on Wednesday, April 27, I received a letter addressed to myself and Senator Ed Lawson with regard to meetings we have had recently with Musqueam leaseholders. This letter was circulated to the members during a meeting of the Standing Senate Committee on Aboriginal Peoples. The letter speaks of the meeting we had with the leaseholders and says that we failed to meet with the native band. It puts into question our representation of all Canadians.

Senator Lawson and I decided that, in all fairness, we would meet with the Musqueam band. We indicated that we were prepared to meet immediately, in view of the controversy resulting from Bill C-49 and the plight of Musqueam leaseholders. Wednesday, May 5 was the date agreed upon for the meeting. In order to attend that meeting, Senator Lawson and I missed the sittings of the Committee on Aboriginal Peoples, which was hearing many witnesses from British Columbia. It was important for us to be here but, in the interests of fairness, we thought that we should meet with the native band. Therefore, we postponed travelling to Ottawa in order to attend this meeting. However, the meeting was first deferred from 2:00 p.m. on the Wednesday to 5:00 p.m., and later cancelled. It is important to note on the record that if a letter is circulated about senators representing all Canadians, we took the steps necessary to meet with the Musqueam native band as quickly as possible so that they could give a presentation this week before the Senate committee hearings that will be taking place.

• (1420)

We have not received an explanation as to why there were two or three cancellations of this meeting. It is important, however, that it be placed on the record that we represent all Canadians and that we are not taking sides. We were invited by the leaseholders to meet with them, and we responded to the invitation to meet with the native band. The record will show that.

Hon. Edward M. Lawson: Honourable senators, I wish to add a brief comment. First, I endorse Senator St. Germain's remarks. I also wish to add that if I had a suspicious mind, I would think that, perhaps, the chief of the tribe outsmarted us.

They arranged to keep us in Vancouver on the pretence of a meeting that we were to have with them at their request so that we would miss the Senate hearings where, perhaps, we were being too vocal on the issue of how unfairly the homeowners are being treated. Not being suspicious by nature, I would not suggest that was the case.

In meeting with the homeowners, we were told repeatedly of horror stories involving their presentations before an independent committee of the tribe to deal with their appeals on tax assessments. After they had made their presentations, the independent committee resigned because of interference by the tribe. That independent body was replaced with a new committee that was appointed by the tribe, and the homeowners lost all the additional appeals that they had filed.

The conduct of the chief and the tribe in dealing with this situation certainly removes any doubts that I had about the authenticity and accuracy of what the homeowners told us.

CHILD CUSTODY AND ACCESS

GOVERNMENT RESPONSE TO SPECIAL JOINT COMMITTEE REPORT

Hon. Landon Pearson: Honourable senators, yesterday the government tabled its response to the Special Joint Committee on Child Custody and Access, "For the Sake of the Children."

While I plan to comment in detail about the government's strategy to proceed towards reform of the current system by means of an inquiry I will initiate shortly, I should like to take advantage of the opportunity provided under Senators' Statements to share briefly my initial reactions.

On the whole, my reaction is positive. I am pleased the government has taken our key recommendation to heart, namely, that when a divorce affects a child, the child's interests and perspective must be at the centre of every decision. Children cannot be treated like marital property and must not be used as gambits in parental conflicts. I am also pleased that the government has recognized that, because each child and each set of parents are different, there can be no presumption of what the proper arrangement will be. That is to say, one size does not fit all.

The state will not throw its weight behind a particular formula for post-divorce parenting. The government has, however, committed itself to helping parents meet their responsibilities toward children in a cooperative and nonconfrontational way. Parenting plans, mediation, education and services will all play a part in cooling down process to divorce so that children and parents do not get burnt out.

I am especially satisfied that the government appears to have accepted the testimony of children that the most important thing for them is that their relationships with their parents and extended families continue. Grandparents have echoed this feeling. The government will seek ways to foster good relationships after divorce and recognize the desire of grandparents to undertake responsibility toward children.

It is also good that the government has acted on the committee's hope that it will not be long before no one in Canada thinks about children in terms of custody and access. These are words of ownership and control and they do not reflect our society's value of care and responsibility towards children. The government is prepared to substitute the term "shared parenting," or something very like it. This is not a formula for a particular arrangement but, rather, a recognition that parental responsibilities continue as long as a child requires them, which, in my experience, is forever.

The government's response also demonstrates that it has heard the concerns about violence in divorce, which were raised in our report, as well as the concerns about false allegations of abuse. Throughout its document, the government confirms that the foremost consideration is the safety and integrity of children. It is clear from the government's response that it has recognized that the state cannot punish or force people to become good parents. Luckily, that is what most parents want to be. Government strategy is to provide parents with the tools to work cooperatively while dissuading them from using children as weapons in a divorce. When a parent wrongfully denies a child the opportunity to see the other parent, the government has recommended early intervention, mediation, and other positive measures to deal with the conflict. The government has said that punishment would be a last ditch measure in persistent and intractable cases.

No one wins in a high conflict or bitter divorce situation affecting children. The government's response is a step in the right direction. It empowers parents to act as adults so that children can grow as children. As every parent should tell you, part of being fully adult is learning how to listen to children.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to a group of distinguished young Canadians in our gallery. These are the guides who will be here for the whole of the summer, as tourists from all over Canada and all over the world come to visit the Parliament of Canada.

Hon. Senators: Hear, hear!

[Translation]

Yesterday, these young Canadian guides spent a large part of the day here in the Senate. They met a number of senators. I thank honourable senators for their presentation. We are delighted to have you here in the Senate today.

[Senator Pearson]

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, May 12, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[English]

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

BUDGET IMPLEMENTATION BILL, 1999

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

INCOME TAX AMENDMENTS BILL, 1998**FIRST READING**

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

[Later]

TRANSPORT AND COMMUNICATIONS**NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO PERMIT ELECTRONIC COVERAGE**

Leave having been given to revert to Government Notices of Motions:

Hon. Marie-P. Poulin: Honourable senators, I give notice that on Wednesday, May 12, 1999, I will move:

That the Standing Senate Committee on Transport and Communications be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

CHILD CUSTODY AND ACCESS**GOVERNMENT RESPONSE TO SPECIAL JOINT
COMMITTEE REPORT—NOTICE OF INQUIRY**

Hon. Landon Pearson: Honourable senators, I give notice that on Thursday, May 13, 1999, I will draw the attention of the Senate to the government response to the report of the Special Joint Committee on Child Custody and Access entitled "For the Sake of the Children."

QUESTION PERIOD**NORTH ATLANTIC TREATY ORGANIZATION****CONFLICT IN YUGOSLAVIA—AIR STRIKE ON
CHINESE EMBASSY—CANADIAN MILITARY INVOLVEMENT
IN PLANNING BOMBING MISSIONS**

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is addressed to the Leader of the Government in the Senate.

Last Friday, a NATO bomb struck the Embassy of China in Belgrade and caused a great deal of consternation for everyone. Does Canada participate in the selection of targets to be bombed by NATO? If Canada did participate in the NATO intelligence error which targeted the Chinese embassy in Belgrade, this intelligence error could have been obviated by Canada providing an up-to-date copy of Belgrade's telephone directory showing where the embassy is located.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware that Canada participated in the mission. However, I am sure that Canada did not participate in the planning of the mission itself.

It was made very clear over the weekend that Canada deeply regrets that NATO's air operations resulted in the loss of civilian life at the Chinese embassy. Prime Minister Chrétien has written to the President of China expressing our sadness over the incident. Similar messages have been delivered by the Minister of Foreign Affairs and other Canadian officials. This was, indeed, a tragic mistake. NATO does not deliberately target embassies or civilians.

Senator Kinsella: Honourable senators, intelligence gathering is part of the campaign, which many find to be an illegal campaign. Many of us take hope in recent developments on the negotiation side to attempt, to return or to place this matter under the proper international law fora of the United Nations.

To what extent does Canada participate in intelligence gathering? Was the intelligence unit involved in this tragic mistake the same intelligence unit that failed to provide intelligence as to the effect of NATO bombing on the displacement of Kosovar Albanians, some 400,000 now having been displaced after the commencement of NATO bombing?

Senator Graham: The Honourable Senator Kinsella knows that Canada would not deliberately participate in any bombing that would harm civilians. The objective, as I have said on other occasions, is to ensure that peace is restored to the area. NATO has laid down the conditions for the restoration of normalcy in the Balkans. Briefly they are: the immediate and verifiable end of the violence and repression in Kosovo; the withdrawal from Kosovo of Yugoslav and Serbian military police and paramilitary forces; the safe and free return of all refugees and displaced persons; unimpeded access by humanitarian organizations and the deployment of an international presence endorsed by the

United Nations, with both civil and military components capable of achieving the commonly shared objective of the safe return of the Kosovars to Kosovo. The last condition would be to negotiate a political framework that would grant Kosovo a considerable degree of autonomy within the territory of the Yugoslav republic.

Continuing diplomatic efforts are being made by Canada and other countries. The former prime minister of Russia, Mr. Chernomyrdin, is in Beijing. Prime Minister Chrétien was in contact with our NATO allies on the weekend. He recently discussed the situation with President Chirac of France. My honourable friend will also know from public pronouncements in the press that Foreign Minister Axworthy is in continual contact with his counterparts in all allied countries.

**CONFLICT IN YUGOSLAVIA—EFFECT OF AIR STRIKES
ON DISPLACEMENT OF REFUGEES**

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, did Canadian intelligence or NATO intelligence predict prior to the bombing commencement that there would be this massive displacement of Kosovar Albanians from Kosovo as a consequence of the NATO bombing?

Hon. B. Alasdair Graham (Leader of the Government): The displacement, honourable senators, is not a result of the NATO bombing. The displacement is a result of the despicable actions taken by Mr. Milosevic.

We have talked about the displacement of close to 1 million people who have had to move from Kosovo to neighbouring countries, where they have been given refuge in rather uncomfortable surroundings. Canada is in the process of welcoming up to, and perhaps more, than 5,000 refugees, 1,700 of whom have already landed on our soil.

**CONFLICT IN YUGOSLAVIA—AIR STRIKE ON CHINESE
EMBASSY—RELIABILITY OF INTELLIGENCE INFORMATION**

Hon. A. Raynell Andreychuk: Honourable senators, has Canada done anything in an independent way to analyze whether the security and intelligence factors are accurate and adequate, or are we relying simply on the assurances of the Americans, who seem to be in the lead?

Hon. B. Alasdair Graham (Leader of the Government): As the honourable senator will know, we have our own security and intelligence agency. It is active on a day-to-day basis. However, I am not aware of the specifics, nor would it be appropriate for me to comment on them at the present time.

Senator Andreychuk: In light of this bombing of the Chinese embassy, has Canada instituted a review to ensure that all the best possible intelligence is being gathered and that there will not be a repeat of this unfortunate incident?

Senator Graham: Honourable senators, I cannot guarantee there will not be a repeat of the unfortunate incident. However, I can guarantee that those responsible for security and intelligence

in the military are taking all possible measures to avoid another unfortunate incident.

**CONFLICT IN YUGOSLAVIA—
EMBARGO IN THE ADRIATIC SEA—REQUEST FOR UPDATE**

Hon. J. Michael Forrestall: Honourable senators, all is safe now. The senator and I intend to go offshore and protect everyone, except that the helicopter has broken and we cannot even get it off the ground.

• (1440)

My question to the Leader of the Government in the Senate has to do with the possible embargo in the Adriatic Sea. Can he shed any light on where the question stands?

At the same time, if he has such information, can he indicate whether or not the NATO standing force in the Atlantic will be involved? To that end, has the force moved from off the coast of Europe into either the Mediterranean Sea or to the nearby Adriatic Sea?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, it is my understanding that the forces are moving to the nearby Adriatic Sea. A final decision has not been taken with respect to interdiction, which is presently under review.

Senator Forrestall: Does the leader mean under review by NATO? Who will take the decision once the situation has been reviewed?

Senator Graham: It is being reviewed by NATO. As my honourable friend knows, Canada will play a leading role in any interdiction that may take place.

**CORRECTIONAL SERVICE REVIEW OF STATUTORY RELEASE
AND PAROLE PROVISIONS—GOVERNMENT POSITION**

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It deals with the release of prisoners from federal prisons.

The leader will remember that several weeks ago I asked him a series of questions regarding the 50-50 quota system for prisoner release in Ontario which Commissioner Ingstrup recommended be implemented by 2000. At that time, I expressed concern that opening up Canada's federal corrections facilities that way could result in considerable danger to the welfare and safety of law-abiding people.

In the past few weeks, we have witnessed a series of high-profile inmate escapes and parole violations, four in the last two months. Several of them were dangerous and violent offenders travelling on civilian buses without an escort. We can only pray that these offenders do not savage decent law-abiding citizens any more than they already have.

Today's *Ottawa Citizen* contains a very disturbing story on a related topic. The headline reads, "Automatic parole comes under fire. Rash of escapes prompts calls for review."

The author of the article, Tim Naumetz, notes:

The government may review statutory release provisions that result in the automatic parole of federal inmates after they serve only two-thirds of their sentences, a senior Liberal MP says.

The issue will likely be addressed in a sweeping parliamentary review of the Correctional Service of Canada and parole provisions and could be part of a new government agenda next fall, said John Maloney, chair of the Commons justice committee.

Could the Leader of the Government in the Senate shed further light on this particular proposition proffered by his colleague in the other place?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, yes, it is true that the government is contemplating legislation in this respect. However, I cannot confirm that the National Parole Board has a quota system.

Senator Oliver: Is the government's position that federal inmates who may be dangerous, violent offenders should be given the enhanced legal right to an early parole?

Senator Graham: Honourable senators, as I said, the Government of Canada is undertaking a review of this matter. I anticipate that legislation will be introduced in the fall.

Senator Oliver: Since the government is undertaking a review, could the Leader of the Government in the Senate tell us what is the evil that this review is designed to correct? What is the problem?

Senator Graham: If the Honourable Senator Oliver has been reading the newspapers, he will know the problem. There are inherent dangers to releasing anyone onto the streets. However, this government believes in rehabilitation. Hopefully, we will be able to advance and improve upon the kinds of programs that are now in existence. I know that the government is looking at many measures. Announcements are pending on some very positive measures, such as restorative justice in the legal system.

JUSTICE

CHILD CUSTODY AND ACCESS—GOVERNMENT RESPONSE TO REPORT OF SPECIAL JOINT COMMITTEE— POSSIBLE DELAY IN ENABLING LEGISLATION

Hon. A. Raynell Andreychuk: Honourable senators, I notice that the government has responded to the Special Joint Committee on Child Custody and Access. In the main, the response has put forth some very valuable principles which I think most Canadians welcome.

However, as is often said, the devil is in the detail. Will the Leader of the Government indicate why it will take three years to

restudy this issue when the joint committee has aired it already? Most Canadians are well aware of the study. Federal, provincial and ministerial level committees have been dealing with this issue on family courts and family administration for many years. Why would we delay for three years something which Canadians wish immediately when the work-up has already been done?

Hon. B. Alasdair Graham (Leader of the Government): First, honourable senators, I wish to congratulate again all the members of the committee who participated in the study by the Special Joint Committee on Child Custody and Access. I believe honourable senators in this chamber can be proud of the role they played in that whole exercise.

My honourable friend may have answered her own question. The devil is in the detail. I have had discussions with the Minister of Justice, who is pleased with the the joint committee report. In the meantime, there will be ongoing discussions.

I think it is appropriate that the minister does not want to jump to conclusions without appropriate discussion in both Houses of Parliament and, most certainly, with the provinces which have a special interest in this particular area.

Senator Andreychuk: Honourable senators, surely the joint committee report represents the discussion by Parliament. I know that there are ongoing discussions with the provinces. Until some legislation is crystallized, one cannot look at the details. Most Canadians agree on the principles.

Will the Leader in the Government tell me what possible advantage there could be to airing these issues again in a broad, general way, except to bring two opposing sides on the periphery back into the limelight, where the issues become more argumentative and destructive to children? Why do we not negotiate the legislation with the provinces? I do not believe, nor would I suggest that the leader believes, that it will take three years to do so.

Senator Graham: Knowing the Minister of Justice, I should think that those discussions are ongoing at the present time. The Minister of Justice is active on a number of files. She does not believe in delay. However, she does believe in thoroughness. I am sure that if she could shorten the three-year time period, she would do so. I will certainly bring the representations of Senator Andreychuk to the attention of the Minister of Justice.

Hon. Mabel M. DeWare: Honourable senators, we were very excited last Friday when it looked as if the minister would come forward quickly with legislation to deal with custody and access. Anyone who sat on the Custody and Access Committee heard testimony on the dramatic experiences of witnesses and some of the terrible tragedies which separated their families. We know the government has to move quicker. It was not only during our study but during the debate on the Divorce Act that these issues came up. That means that for over three years now the minister has known of the problems in this area and that it should be discussed.

Today, in the *National Post*, an article on the subject stated, in part:

Karen Celica, a family lawyer in Belleville, Ont., said that while reforms dealing with shared parenting would be welcome, a delay won't "make much difference."

A delay will make a big difference to parents who are separated from their families because they have been falsely accused and who, two years later, have been found not guilty. When a parent has not seen a young child of two or three years of age for two whole years, what kind of relationship can they have after that? This matter is serious, Mr. Minister.

I am telling honourable senators that ministers of governments in Canada have ministerial meetings every year. I have been part of them.

• (1450)

There is no reason why the minister cannot draft a piece of legislation, take it to her ministerial counterparts sooner and have everything done in a year. The outside consultation has been done.

I would ask the Leader of the Government to encourage the Minister of Justice to move quickly on this matter. It is very important.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I want to recognize the contribution made by Senator DeWare when she was chair of the Standing Senate Committee on Social Affairs, Science and Technology when the amendments to the Divorce Act were under consideration. I also want to recognize the contribution made by honourable senators who sat on the Special Joint Committee on Child Custody and Access. I shall certainly bring to the attention of the Minister of Justice, and my cabinet colleagues the representations and concerns properly put forward by Senators DeWare and Andreychuk.

NATIONAL REVENUE

INCOME TAX—INFLUENCE OF INFLATION ON CHANGES IN BRACKETS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It concerns bracket creep, the process by which inflation pushes Canadians into higher tax brackets. Few would consider Canadians with an income in the low \$30,000 range to be rich, yet the second tier of the federal tax system, the 26 per cent tax bracket, kicks in at an income level of only \$29,950.

Could the Leader of the Government confirm that the starting point of this bracket should rise to \$32,650 to offset the inflation which has occurred since the government's election in 1993?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, once again I have neglected to bring my

computer to the chamber, but I will be pleased to try to do the arithmetic and bring forward a more complete answer.

Senator Stratton: I hope the government leader's computer arrives at the same sums as ours did.

Would the Leader of the Government also confirm that Canadians with a taxable income of only \$32,650 will pay \$243 more in federal taxes this year than they would if the government were simply to adjust tax brackets to reflect increases in the cost of living since 1993?

I might add that, if we were to include the provincial taxes, this \$243 really translates into an extra \$340 to \$380, or roughly two days' pay.

Senator Graham: Again, honourable senators, I will have to go to my computer, but as the honourable senator knows, the 1998 and 1999 budgets together provide tax relief of \$3.9 billion. In 1999-2000, there will be more tax relief in the order of \$6 billion. In the year 2000-2001, the amount will be \$6.6 billion. For three years, the total is \$16.5 billion. All Canadians will see tax relief as a result of this government's balanced budgets. Indeed, the books showed a surplus of \$3.5 billion in the last year.

This government has promised two more balanced budgets. That will give us four consecutive balanced budgets, which will be the first time since Confederation that any government has achieved such a positive result in our economy.

Senator Kinsella: Thank God for free trade.

Senator Stratton: Honourable senators, the leader has said that his government achieved this feat. I thought he had agreed last week that Canadians had done it, not the government, that Canadians have paid the price and made the sacrifices.

Senator Graham: Senator Stratton is again correct. Canadians did it together, under a Liberal government.

Senator Stratton: It required \$41 billion of extra revenue.

[Translation]

INDUSTRY

INADEQUACIES OF PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL—GOVERNMENT POSITION

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government and concerns Bill C-54, dealing with the protection of personal information. The bill has not yet been received in the Senate. I wish to alert the Leader of the Government in the Senate. The bill proposed by Minister Manley does not ensure the protection of personal information that commercial businesses may provide and, except for the specific exceptions provided in the legislation, it only includes a recommending power. Indeed, the commissioner only has a recommending power.

Honourable senators, Quebec and other Canadian provinces have acts on the protection of personal information that are binding on the courts, without any exceptions. I would like the minister to inquire with his cabinet colleagues and alert senators to the fact that Minister Manley's bill is far from being protection of personal information in Canada, that it could be a step backward and that, in obvious cases, it could jeopardize the protection of personal information relating to Canadians.

[English]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Senator Rivest raises an interesting point, which I will be happy to bring to the attention of Minister Manley, the minister directly responsible for the bill. I anticipate that we will be getting that legislation shortly after we return from the break. When the bill reaches this place, honourable senators will have an excellent opportunity to debate it in the chamber and in the appropriate committee.

In the meantime, the honourable senator has my undertaking that I shall make direct representations today to Minister Manley regarding his concerns and representations.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce the pages with us this week on the exchange program with the House of Commons.

On my left, I have Caitlin Carlson from Victoria, British Columbia. Caitlin is enrolled in the Faculty of Public Affairs and Management at Carleton University. Her major is journalism.

[Translation]

Laura Travelbea is from Brentwood Bay, British Columbia. She is enrolled in the Faculty of Arts at the University of Ottawa. For those of you not familiar with Brentwood Bay, I would point out that it is a lovely village on Vancouver Island.

I wish you welcome on behalf of all of the honourable senators.

ORDERS OF THE DAY

EXTRADITION BILL

THIRD READING—MOTIONS IN AMENDMENT —
POINT OF ORDER—SPEAKER'S STATEMENT

On the order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator

Pearson, for the third reading of Bill C-40, respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence.

And on the motions in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., that the Bill be not now read a third time but that it be amended:

1. in clause 44:

(a) by replacing lines 28 and 29 on page 17 with the following:

“circumstances;

(b) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner; or

(c) the request for extradition is made for”; and

(b) by replacing lines 1 to 6 on page 18 with the following:

“(2) Notwithstanding paragraph (1)(b), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the Minister that the death penalty will not be imposed, or, if imposed, will not be executed, and where the Minister is satisfied with those assurances.”.

2. in Clause 2 and new Part 3:

(a) by substituting the term “general extradition agreement” for “extradition agreement” wherever it appears;

(b) by substituting the term “specific extradition agreement” for “specific agreement” wherever it appears;

(c) in clause 2, on page 2

(i) by adding after line 5 the following:

““extradition” means the delivering up of a person to a state under either a general extradition agreement or a specific extradition agreement.”;

(ii) by deleting lines 6 to 10;

(iii) by replacing line 11 with the following:

““extradition partner” means a State”;

(iv) by adding after line 15 the following:

“‘general extradition agreement’ means an agreement that is in force, to which Canada is a party and that contains a provision respecting the extradition of persons, other than a specific extradition agreement.

“‘general surrender agreement’ means an agreement in force to which Canada is a party and that contains a provision respecting surrender to an international tribunal, other than a specific extradition agreement.”;

(v) by replacing lines 20 and 21 with the following:

“‘specific extradition agreement’ means an agreement referred to in section 10 that is in force.

“‘specific surrender agreement’ means an agreement referred to in section 10, as modified by section 77, that is in force.”;

(vi) by replacing lines 29 to 31 with the following:

“jurisdiction of a State other than Canada; or

(d) a territory.

“‘surrender partner’ means an international tribunal whose name appears in the schedule.

“‘surrender to an international tribunal’ means the delivering up of a person to an international tribunal whose name appears in the schedule.”

(d) on page 32, by adding after line 6 the following:

PART 3

SURRENDER TO AN INTERNATIONAL TRIBUNAL

77. Sections 4 to 43, 49 to 58 and 60 to 76 apply to this Part, with the exception of paragraph 12(a), subsection 15(2), paragraph 15(3)(c), subsections 29(5), 40(3), 40(4) and paragraph 54(b),

(a) as if the word “‘extradition’” read “‘surrender to an international tribunal’”;

(b) as if the term “‘general extradition agreement’” read “‘general surrender agreement’”;

(c) as if the term “‘extradition partner’” read “‘surrender partner’”;

(d) as if the term “‘specific extradition agreement’” read “‘specific surrender agreement’”;

(e) as if the term “‘State or entity’” read “‘international tribunal’”;

(f) with the modifications provided for in sections 78 to 82; and

(g) with such other modifications as the circumstances require.

78. For the purposes of this Part, section 9 is deemed to read:

“**9.** (1) The names of international tribunals that appear in the schedule are designated as surrender partners.

(2) The Minister of Foreign Affairs, with the agreement of the Minister, may, by order, add to or delete from the schedule the names of international tribunals.”

79. For the purposes of this Part, subsection 15(1) is deemed to read:

“**15.** (1) The Minister may, after receiving a request for a surrender to an international tribunal, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the surrender partner, an order of a court for the committal of the person under section 29.”

80. For the purposes of this Part, subsections 29(1) and (2) are deemed to read:

“**29.** (1) A judge shall order the committal of the person into custody to await surrender if

(a) in the case of a person sought for prosecution, the judge is satisfied that the person is the person sought by the surrender partner; and

(b) in the case of a person sought for the imposition or enforcement of a sentence, the judge is satisfied that the person is the person who was convicted.

(2) The order of committal must contain

(a) the name of the person;

(b) the place at which the person is to be held in custody; and

(c) the name of the surrender partner.”

81. For the purposes of this Part, the portion of paragraph 53(a) preceding subparagraph (i) is deemed to read:

“(a) allow the appeal, if it is of the opinion”

82. For the purposes of this Part, paragraph 58(b) is deemed to read:

“(b) describe the offence in respect of which the surrender is requested;” and

(e) by renumbering Part 3 as Part V and sections 77 to 130 as sections 83 to 136; and

(f) by renumbering all cross-references accordingly.”

The Hon. the Speaker: Honourable senators, before we move on to debate this item, you will recall the matter raised by Senator Grafstein and the point of order by Senator Bolduc.

On Wednesday, April 14, during debate on the third reading motion of Bill C-40, Senator Grafstein spoke to several amendments he proposed to move. At the time, the text of these amendments was only in English. Furthermore, while explaining the reasons for these amendments, Senator Grafstein made reference to Madam Justice Louise Arbour, a Canadian judge who is currently serving as Prosecutor at the International War Crimes Tribunal in The Hague.

The absence of the French text of the proposed amendments and the references to Madam Arbour gave rise to a point of order from Senator Bolduc. The senator expressed his objection that the proposed motions in amendment were in only one language. He also questioned the propriety of soliciting advice from a judge on a matter of public policy, in this case the policy relating to extradition.

[English]

Responding immediately to Senator Bolduc's second objection, Senator Grafstein admitted to his own reservations about the action he had taken in seeking Madam Arbour's views on Bill C-40. He admitted that Senator Bolduc had raised a valid objection and agreed to withdraw his references to Madam Arbour.

• (1500)

Despite this, Senator Bolduc asked for a ruling from the Chair. Several senators spoke in support of this position and Senator Prud'homme noted how the additional time could be used to prepare the amendments in both languages. Senator Grafstein subsequently confessed his own misgivings about proceeding with his amendments in one language only. He explained that he had felt compelled to bring forward these amendments for fear that Bill C-40 would be passed without having an opportunity to explain his position on the current version of the bill.

Shortly afterwards, I indicated my readiness to study the issues related to the point of order and there was agreement to adjourn debate on the bill.

[Translation]

The next day, Thursday, April 15, when Bill C-40 was called, I made a statement proposing that debate be allowed to proceed. I made this suggestion in view of the fact that Senator Grafstein's proposed amendments were now in both languages and because he had withdrawn all references to Madam Arbour. At the same time, I indicated that I would be making a statement on the two issues raised by Senator Bolduc's point of order following some further study. Senator Grafstein's amendment was properly moved and debate has proceeded since then.

Having had an opportunity to review the matter more closely, I am now prepared to make a statement on the questions that were raised by the point of order.

I will begin by addressing the issue of whether there is an obligation to present motions, inquiries or amendments in the Senate in both official languages. The *Rules of the Senate* are silent on this question. This is also true of the other place. *Beauchesne's Parliamentary Rules & Forms* (6th edition) citation 552(3) at page 171 notes only that in the other place the written version of motions that must be provided to the Speaker prior to presentation to the House for debate can be in either of the two official languages.

[English]

In the Senate, the presentation of motions and inquiries in one language poses no inconvenience because neither is usually debated before a requisite notice period of one or two days has lapsed. By the time these motions or inquiries are called for debate, they are invariably available in both languages, having been printed in the Order and Notice Papers.

The situation is somewhat different in the case of amendments, including those made to the content of bills at report stage and third reading. Such amendments are routinely moved without notice and can be placed before the Senate for immediate consideration while still in one language. In Senator Grafstein's case, a lack of time and a sense of urgency prevented him from having his amendments ready in both languages as he had intended.

Such an occurrence is not without precedent. The Senate was faced with a similar circumstance in January 1993 during debate on Bill C-91 amending the Patent Act. At that time, a long and complex amendment was moved to one of the clauses of the bill at third reading. One senator objected on a point of order because the amendment had been presented in only one language. It was proposed, therefore, that debate on the amendment be suspended or adjourned until it was available in both languages. Although some senators took note of the fact that the rules and authorities did not require that amendments be presented in both languages, it was generally agreed to have them in English and French prior to further debate. The Senate then decided to adjourn the debate in order to allow the preparation of the amendment in both languages.

[Translation]

The incident of 1993 parallels exactly what occurred on the amendments of Senator Grafstein to Bill C-40. Furthermore, it is my understanding that the practice in committees is to ensure that both language versions of any amendments to bills are available to senators before a decision is taken. This suggests that, whatever the requirements stipulated in the rules or authorities, the Senate recognizes the importance to have motions, inquiries and amendments in both languages. When this is not done, it would appear that the Senate is disposed to postpone any decision until the debated question, having been moved, is available in both languages. It seems to me that this is the proper way of proceeding.

[English]

As to the second issue raised in Senator Bolduc's point of order, the references to the views attributed to Madam Justice Arbour, I do not believe that there is a simple answer. Beauchesne's notes at Citation 493 on pages 150-151, the deference that is due in debate to so-called protected persons. Certain prohibitions are normally observed or applied when these protected persons are mentioned in debate. For example, all references to judges and the courts that are in the nature of a personal attack or censure have always been considered unparliamentary. In addition, Beauchesne's states that the Speaker has traditionally protected from attack, groups or individuals of high official status. As well, the Speaker has cautioned parliamentarians to exercise great care in making statements about persons who are outside the house and are unable to reply directly.

On the face of it, the precautions cited in Beauchesne's do not seem to have any immediate bearing on the case at hand. Senator Grafstein's references to Madam Arbour were certainly not critical or offensive. Indeed, they suggest that the senator was not particularly successful in obtaining information on the bill from Madam Arbour's office. As I understand it, Madam Arbour made no substantive comment on the details of the bill. The statement attributed to her simply suggests some satisfaction that Canada has taken steps in fulfilment of a treaty obligation and little else.

[Translation]

Equally important in this instance is the fact that Madam Arbour was not in fact cited in connection with her position as a Justice of the Ontario Court. Instead, Madam Arbour was mentioned in her current international role as Prosecutor at the International War Crimes Tribunal, a position she secured through an authorization by Parliament for a leave of absence from her judicial office.

Senator Bolduc also explained that the references to the views of Madam Arbour were objectionable because they transgressed the boundaries normally maintained between ministers and their public servants. It is well accepted that the domain of policy is reserved exclusively to ministers, while public servants should normally confine themselves to statements on programs and implementation. Again, in this particular case, I am uncertain whether Madam Arbour, either as a prosecutor or even as a judge, can be looked upon as a public servant answerable to a minister or how her comments can be construed as an unwarranted expression of opinion on public policy. I do not believe that this kind of objection is applicable to the situation that occurred April 14.

[English]

Nonetheless, I appreciate the point of view that prompted Senator Bolduc and others to speak to the issue, particularly with respect to the expressed concerns involving the judiciary. Very specific roles are assigned to the legislatures, and to the courts. The independence of both is essential to the proper operation of our form of government. This independence can be undermined by Parliament commenting on judges and the courts in debate in

ways that are inappropriate. While there is no doubt that parliamentarians have a right and perhaps an obligation to take note of the work performed by the courts, it must be done in a way that respects the integrity of the courts. How this is actually done in practice is a responsibility we all share.

• (1510)

THIRD READING—MOTIONS IN AMENDMENT—
VOTE DEFERRED

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to speak to Senator Kinsella's motion to refer the bill and amendments back to committee. There was an impression, shared by a number of colleagues opposite, that a vote on Bill C-40 might be called, or had even been agreed to last week by the leadership on this side. I can state categorically that this was simply not the case. Third reading debate on this bill has been led by Liberal senators. Our contribution, while significant, has been mainly complementary to theirs.

In any event, it is for the government to manage its legislation, not for the opposition. Any decision to have a vote, if by agreement, is made public, and if at a time the government prefers, it acts accordingly. The opposition is in no position to determine a voting day advantageous to it. At any rate, what advantage does it gain in putting the question on a government motion to accelerate its passage?

I repeat that the responsibility for the management of government legislation is the government's alone. This, by the way, with few exceptions, could not and has not been achieved without full cooperation by the opposition.

As for the confusion surrounding a possible vote last week, I can assure all colleagues that we are not in the least responsible for it. While the government quite naturally wants any bill disposed of as quickly as possible, in the case of Bill C-40 the government let its wishes be known without being more specific than that, while we at no time — and I repeat "at no time" — indicated that we would ask for a vote on any particular day.

Much has been made of the fact that the government refuses a free vote on Bill C-40. After all, it does touch on capital punishment which, each time it has been brought up in Parliament, has been free from the discipline of the whips. Decisions on abortion and capital punishment — matters dealing with life and death — should not be surrendered to party discipline, as a caucus may be divided on matters of conscience and so, in fact, may the cabinet.

It must also be remembered that the Senate is a non-confidence chamber. Loss of a government bill here is just that. It does not lead to the downfall of the government. Yet, in this case, the government insists on extending heavy-handed party discipline to its supporters in the Senate, thereby lumping them with their elected caucus colleagues with regard to abiding by government dictates. Ironically, this rigidity goes against the pledge in the infamous Red Book of 1993 of more free votes in the House of Commons. By extension, this includes the Senate.

What better way to confirm this pledge than to allow senators to vote their conscience on Senator Grafstein's amendments. We, on our side, have had a number of discussions on these amendments and on the bill itself, and we have instructed our whip to allow senators to vote according to conscience.

The motion to refer the bill back to committee is fully justified and has been well explained by its sponsor, Senator Kinsella. There have been matters raised during third reading which could be explored only in general terms. Committee hearings would not only complete the discussion initiated in the Senate but would confirm their value by examining their more technical aspects which, as Senator Kinsella pointed out, cannot be done at third reading.

Referral would also allow an examination of the possible participation of Judge Louise Arbour in the preparation of this bill. This impression is very strong. Even more troubling, if it is well founded, it is an unacceptable violation of the convention which recognizes the independence of the judiciary without equivocation.

Let me reiterate the facts: On April 14, Senator Grafstein quoted from the Justice Minister's statement to the Standing Senate Committee on Legal and Constitutional Affairs as follows:

Bill C-40 has attracted strong support from the current Chief Prosecutor, Louise Arbour.

Senator Milne, as chairman of the committee, explained that the statement of the Minister of Justice was based on an interview given by Madam Arbour to the *Edmonton Journal*. Madam Arbour is on leave from the Ontario Court of Appeal and so remains a full-fledged member of the Canadian judiciary, and as such, committed to the independence from government which her position mandates.

Bill C-40 was given first reading and ordered printed in the House of Commons on May 5, 1998. The interview which appeared in the *Edmonton Journal* the following day was given by Madam Arbour from Canberra, Australia. Therefore, from the statement of the Minister of Justice, and from the quotation attributed to Madam Arbour from Australia less than 24 hours after the bill was given first reading, with copies unavailable to the public, it appears that Madam Arbour had knowledge of the legislation before it was tabled in the House of Commons and so may well have been consulted in the development and the elaboration of the bill.

To benefit from her experience as a special prosecutor is certainly quite in order; however, she is on leave as a member of the Ontario Court of Appeal, which someday may be asked to rule on a decision arising from Bill C-40. She may even have to rule on the constitutionality of the bill, as it may well be challenged under the Charter of Rights and freedoms. She is repeatedly listed as a leading candidate for the Supreme Court, which should make her even more conscious of her obligation to keep her distance from anyone — be she minister or be he senator — seeking advice on legislation proposed and already in place.

The committee must ask the Minister of Justice for an explanation of what role, if any, Madam Arbour played in the drafting of Bill C-40. I am troubled by the fact that the minister's officials, who are certainly not indifferent to the debate which has been ongoing here for the last few weeks, have yet to issue any clarification. To not have done so may confirm, in some minds, certain suspicions which, if ill-founded, would be totally unfair to Judge Arbour.

Voting in favour of the referral motion will not only complete the assessment of Senator Grafstein's amendments but it is to be hoped that it will also clarify Judge Arbour's contribution, if any, to legislation which, if it becomes law, may well come before her as a member of the bench. This alone, honourable senators, I believe justifies returning Bill C-40 to committee, which is why I fully support Senator Kinsella's motion.

The Hon. the Speaker: Honourable senators, the question is on the motion in amendment of the Honourable Senator Kinsella. Is it your pleasure to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those in favour of the motion in amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion in amendment please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

Would the whips please advise me on how long they would like the bells to ring?

Hon. Mabel M. DeWare: Pursuant to rule 67(1), I move that the standing vote be deferred until tomorrow.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Therefore, the vote will be held tomorrow at 5:30 p.m., according to the rules.

[Translation]

Hon. Léonce Mercier: Honourable senators, it would be preferable if the vote were deferred until 3:00 p.m. tomorrow afternoon.

[English]

Senator DeWare: Agreed.

The Hon. the Speaker: Is it agreed that the vote will be tomorrow at 3 p.m.?

Hon. Senators: Agreed.

The Hon. the Speaker: Therefore, the bills will ring tomorrow at 2:45 p.m. for a vote at 3:00 p.m.

[Translation]

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—SECOND READING

Hon. Aurélien Gill moved the second reading of Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another act.

He said: Honourable senators, I am pleased to speak to you about Bill C-66 to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act.

Bill C-66 will simplify the National Housing Act by eliminating unnecessary restrictions and authorizing the Canada Mortgage and Housing Corporation to react quickly to the needs of Canadians and to market opportunities. These changes will enable the CMHC to launch new housing financing products, to further promote the export of Canadian housing construction products and to offer Canadians improved and more effective service.

[English]

In my remarks today, I should like to tell honourable senators about the federal government's commitment to playing a leadership role in housing. This will help to explain the importance of this legislation to assure that CMHC can maintain that leadership role.

[Translation]

The primary aim of the Canada Mortgage and Housing Corporation is to promote housing accessibility and choice. Each of its vital activities supports this aim, whether it be the provision of mortgage insurance, making housing available to low-income Canadians, housing research or promoting exports.

The addition of the mandate of government policy related to the role of the CMHC in the area of housing is one of the most important aspects of Bill C-66. This change will give all Canadians the possibility of obtaining mortgage financing at the lowest possible cost, wherever they live.

It is true that most Canadians are well housed. The CMHC must continue to make affordable housing accessible. However,

some people need additional help to meet their housing needs. We are working so that Canadians can get the housing they need through partnerships among all levels of government, community organizations and the private sector.

Each year, the federal government invests \$1.9 billion in social housing across the country. The Canadian government is also investing, over a five-year period, a total of \$300 million in housing renovation projects designed to help low-income Canadians. These funds are used to repair housing units to bring them up to minimum health and safety standards. They are also used to upgrade accommodations for the homeless, or for those at risk of becoming homeless, and to modify units to accommodate persons with disabilities.

Other initiatives taken by the Canada Mortgage and Housing Corporation, such as Homegrown Solutions and the Canadian Centre for Public-Private Partnerships in Housing, are fostering community-based initiatives that address the problem of affordable housing.

Honourable senators, there are many Canadians who own their housing unit thanks to the CMHC mortgage loan insurance. In some cases, because the down payment was low, they were able to buy a house sooner, while in other cases they became owners — a dream they often thought would never come true — without any cost at all to the government.

Mortgage loan insurance allows Canadians to buy a house with a down payment of as little as 5 per cent. That option, which used to be accessible only to first-time buyers, is now available to other buyers. Thanks to the reduced downpayment, the dream has become reality for over 610,000 first-time home buyers since the program began, in 1992. The CMHC surveyed its clientele and found that 70 per cent of these buyers could not, at the time, have become owners without the help provided by the corporation.

[English]

In the past year alone, CMHC has helped Canadians gain access to over 300,000 homes with the use of mortgage loan insurance, and at no cost to the government. In fact, CMHC policy requires that it sell financing over the long run directly from the premiums and fees it collects.

[Translation]

CMHC mortgage loan insurance encourages a large number of options. It lowers the cost of financing housing and makes it easier to obtain loans. It also allows borrowers to use their own resources to meet their financial needs.

The federal government ensures that mortgage loan insurance is accessible to homebuyers throughout Canada. Honourable senators, the proposed amendments would allow CMHC to make its mortgage loan insurance program more commercial. By guaranteeing the competitiveness of this industry, we are giving Canadians access to a broader choice of financing products at the lowest possible cost.

By simplifying the National Housing Act, the CMHC will be able to respond quickly to the needs of Canadians and to market opportunities. The amendments will allow the CMHC to offer new products, such as reverse equity mortgages, which allow older homeowners to use the equity in their homes to obtain funds while allowing them to continue to live in their homes.

CMHC would also be able to develop non-mortgage financing for remote areas where the land registry system does not facilitate mortgages. It would also facilitate financing arrangements on Indian reserves where restrictions exist on providing land as security for mortgages.

[English]

Besides helping Canadians become homeowners, CMHC mortgage loan insurance also provides advantages for the home-building and real estate industries.

[Translation]

The housing industry is essential to our economy. Every year, as they contribute to revitalizing communities in all parts of the country, architects, engineers, urban planners, builders, renovation and real estate companies and other service providers create thousands of jobs.

For every \$100 million spent in the construction industry, 1,500 person-years of employment are created, both directly and indirectly. Behind every construction worker, there are many other workers producing lumber, bricks, wallboard and the other materials required for housing construction.

The Canadian housing industry is an innovative industry that has served the Canadian public well. This is why we have the products and services other countries require, today. CMHC intends to ensure a bright future for the housing industry by promoting its expertise and helping it take full advantage of its export potential.

In December 1997, CMHC created the Canadian Housing Export Centre, which operates in close collaboration with the housing industry and other members of Team Canada. It focusses its efforts on selling Canadian products and expertise to other countries. At present, it is involved in coordinating and facilitating the participation of businesses in the housing industry in trade missions abroad, as well as in a number of other export promotion activities, with a view to improving our sales of housing-related goods and services.

Under this bill, the CMHC will be better able to promote Canadian housing products and services abroad. It is thus responding to requests from members of the industry wanting its support in creating new opportunities. The CMHC will also help Canadians sell their know-how to other countries. Canadian entrepreneurs will have the CMHC's support in promoting their projects abroad. All this will create jobs for Canadians here and around the world.

The CMHC works closely with the housing industry, professional associations and other federal government

departments and agencies in developing export strategies. Thanks to Bill C-66, it will more easily establish partnerships with the housing industry in foreign marketing projects.

Bill C-66 will help the CMHC respond to the growing demand for commercial information. It will enable Canadians to draw on the globalization of markets for the benefit of the public and private sectors.

Canada is known worldwide for the high quality of its housing. We enjoy this reputation today in part because the CMHC tirelessly supported research activities that enriched knowledge about housing, improved construction procedures and improved the quality of housing. Over the years, the CMHC encouraged the design and demonstration of new types of ecological, flexible, accessible and adaptable housing. It also consulted groups of seniors, persons with handicaps and the young in all areas of the country to better target their needs and give them more housing choices.

Honourable senators, for nearly 55 years, the Canada Mortgage and Housing Corporation has played a vital role in the development of our country. Thanks to its help, millions of Canadians have become property owners or found appropriate rental accommodation. Its achievements have given Canada, Canadians and communities huge advantages.

Through Bill C-66, we want to make sure future generations can enjoy the same benefits as previous ones, in terms of government assistance. In order to achieve that objective, the CMHC must be allowed to continue to provide its mortgage loan insurance and pursue other initiatives to make housing more affordable and more accessible in Canada.

I urge all senators to support the proposed amendments to the National Housing Act and the Canada Mortgage and Housing Corporation Act, so that the corporation can continue to help Canadians find a place to live. For over 55 years, the CMHC has truly been at the core of Canada's housing initiatives.

Hon. Normand Grimard: Honourable senators, finding adequate housing remains an impossible dream for a large number of Canadians.

There are currently some 2.8 million Canadian households that spend more than 30 per cent of their before-tax income on housing. This includes about 1.7 million households living in rental accommodations, or two tenants out of five.

In the country's two largest cities, up to 10,000 people spend every night in shelters, including 6,000 in Montreal and 4,000 in Toronto. The number of homeless people is constantly increasing. Only a concerted action on the part of all levels of government can solve this problem.

A few months ago, on the eve of a summit on the homeless held in Toronto, the Prime Minister put the Minister of Labour in charge of this issue, but he did not give her any of the tools needed to act. The result is that the minister refused to attend a summit meeting, which was set for April 30, in Regina.

[*English*]

Honourable senators. Bill C-66 proposes what the government tells us are the most significant changes to federal housing legislation since 1985. Bill C-66 does indeed touch upon many aspects of CMHC's mandate, including: changes that will allow it to expand its mortgage insurance business, more specific authority for its housing research program, more flexibility in how social housing programs are run, and more powers to enter into partnership with the private sector.

Many of these measures are technical or are aimed at strengthening CMHC's business operations. Some of these are mildly positive or at least positive for CMHC's business operations. Most will do little or nothing to address the national shortage of affordable housing or the problem of homelessness in Canada. This bill will not have much of an impact, one way or another, in the lives of those struggling to find affordable shelter.

[*Translation*]

Today, I wish to draw the attention of honourable senators to three aspects of this bill that merit a second objective examination in committee.

First, it will allow the government to withdraw \$200 million from the CMHC over a period of five years, beginning in 1997. This is what the corporation will have to pay the government as compensation for guaranteeing its loan activities. This compensation, which is no more or less than a form of user fee, will jump from \$11.5 million in 1997 to \$51 million in 2002.

Would it not be better if this \$200 million went into a housing budget for low-income earners, as my party's critic proposed in the other chamber.

Bill C-66 proposes replacing three officials on the corporation's board of directors with political appointees. But is it desirable to replace three individuals with broad experience in the housing sector with three others whose knowledge of social housing or mortgage loan insurance may be minimal, or worse?

GE Capital, which also offers mortgage loan insurance, is concerned that Bill C-66 will allow the corporation to continue to enjoy an unfair competitive advantage.

According to this company, although Bill C-66 sets out to standardize the ground rules, it does not really go far enough. For instance, although the crown fully guarantees the corporation, GE Capital's activities are only 90 per cent guaranteed. The company feels that the compensation the corporation would pay the government falls far short. It adds that the bill will allow the corporation to be reinsured without being subject to the restrictions imposed on the private sector.

I think the committee should listen to what it has to say: GE Capital could well raise objections based on convincing arguments that might result in amendments to Bill C-66.

[*English*]

In closing, honourable senators, I wish to quote from a report on housing which, while written a few years ago, could just as easily have been written today. It states:

Canada is presently confronted with a major housing crisis. In recent months, the Task Force has heard from every region of the country, and everywhere the message is the same: The situation is critical and immediate action is necessary to correct the problem. Every part of the country is faced with difficulties related to its particular circumstances. Problems of availability, homeless citizens and many others are causing much distress across the country. In a country such as ours, it is unacceptable that there are 1.3 million households living in inadequate housing or forced to pay an unreasonably high percentage of their income on housing.

Honourable senators, I am quoting from a report entitled, "Finding Room: Housing Solutions for the Future." The report was written in 1990 by Mr. Paul Martin who, at the time, was the Liberal housing critic.

[*Translation*]

Motion agreed to and bill read the second time.

REFERENCE TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall the bill be read the third time?

Hon. Aurélien Gill: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

[*English*]

Hon. Lowell Murray: Honourable senators, I wish to speak to the motion that has been made to refer this bill to the Standing Senate Committee on Social Affairs, Science and Technology. As honourable senators are aware, I am the chairman of that committee, although my remarks now are on my own behalf.

Rule 86(1)(m)(vii) provides that legislation concerning housing be referred to what we commonly call the Social Affairs Committee. However, as we have heard in the two speeches that have been made this afternoon, a relatively small part of this bill actually deals with housing matters.

Honourable senators, this is a bill about mortgage insurance and mortgage guarantees. It is a bill about the governance, the capitalization, the powers and the administration of a Crown corporation. In my experience in this place, such bills would go to one of two other standing committees of the Senate. Bills concerning capitalization, powers, governance and administration of Crown corporations frequently find their way to the Standing Senate Committee on National Finance. Bills on such matters as mortgage insurance and so forth would properly belong to the Standing Senate Committee on Banking, Trade and

Commerce, which is mandated under rule 86(1)(l)(i) to deal with banking, insurance, trust and loan companies, credit societies, caisses populaires and small loans companies; and under 86(1)(l)(v) to deal with corporate affairs.

Therefore, I have no doubt that the Standing Senate Committee on Banking, Trade and Commerce is a more suitable repository for this bill, not only because of the mandate that this committee has according to our rules but also in view of its own experience, and the interest and experience of those colleagues who are members of that committee.

Since the bill was presented in the House of Commons, honourable senators have heard from various individuals and organizations wishing to make representations about it. The word on the street has been that when the bill comes to the Senate, it will be referred to the Standing Senate Committee on Social Affairs, Science and Technology. Therefore, we have received representations, requests to allow briefing time, requests to hear witnesses, and so forth. In 100 per cent of the cases, the concern of citizens has been with the provisions of the bill dealing with mortgage insurance and guarantees, with the governance, powers, capitalization and administration of this Crown corporation called Canada Housing and Mortgage Corporation.

I therefore wonder why the government has been resistant to informal representations that have been made, by me and others, to the effect that the bill ought not to come to the Social Affairs Committee but more properly belongs with the Banking, Trade and Commerce Committee, or with the National Finance Committee.

I am not aware that the Banking, Trade and Commerce Committee is so overwhelmed with work — it is certainly not overwhelmed with legislation — that an exception would need to be made in this case. Further, I believe that we on the Social Affairs Committee can expect other legislation which properly belongs to us to come along over the next few weeks.

• (1550)

I am not complaining, nor do I think my colleagues on the committee will complain about receiving the bill. I simply make the point that, in my opinion, the bill properly belongs to another committee which has a clearer mandate to deal with these matters, and whose members have more experience and interest in these issues of mortgage guarantees, finance, and all the rest of it than do some of us on the Standing Senate Committee on Social Affairs, Science and Technology.

The Hon. the Speaker: Honourable senators, as this matter of reference of bills to committees has arisen previously, I would make clear two points:

I refer you to rule 86(2) at page 97 which says:

Any bill, message, petition, inquiry, paper or other matter may be referred, as the Senate may decide, to any committee.

More germane to the immediate situation is my reading of the rules, and I will admit that this is not a perfectly clear rule. It is

sort of a rule in reverse that there is no debate on a motion to refer a bill. I refer you to rule 62(1)(i), which says:

62(1) Except as provided elsewhere in these rules, the following motions are debatable:

(i) for the reference of a question other than a bill to a standing or special committee;

Therefore, if you take the reverse of that rule, it would be that since only the reference of a question other than a bill is debatable, hence the reference of a bill is not debatable. However, with leave of the Senate, we are free to do as we please.

Is leave granted to hear Honourable Senator Carstairs?

Hon. Senators: Agreed.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I will interpret Senator Murray's statement as a question to me, asking why the bill is going to the Standing Senate Committee on Social Affairs, Science and Technology.

The proposed legislation is being sent to the Standing Senate Committee on Social Affairs, Science and Technology because it is hoped that the Standing Senate Committee on Banking, Trade and Commerce will receive Bill C-72 later this week, and is then anticipating receiving Bill C-67 and Bill C-78, which I understand will engage a great deal of their time. Further, this bill was not sent to the Standing Senate Committee on National Finance because that committee is anticipating receiving Bill C-71 later this week.

I do not know to whom the senator made informal representations. I had not heard until this moment of a desire to send the bill elsewhere. I must say that, at this point, because of the work of the other committees, I feel the Standing Senate Committee on Social Affairs, Science and Technology is the best committee to which to send this bill. That is why I chose a member of that committee to sponsor the bill.

On motion of Senator Gill, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

FISHERIES

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau, pursuant to notice of May 6, 1999 moved:

That the Standing Senate Committee on Fisheries have power to sit at 5:30 p.m. on Tuesday, May 11, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

BUDGET IMPLEMENTATION BILL, 1999

SECOND READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved second reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

He said: Honourable senators, it is my pleasure to speak on behalf of the government at second reading of Bill C-71, the Budget Implementation Bill, 1999.

This bill touches directly on the lives of many Canadians. It provides historic new funding for our public health care system and sets out the design of additional funding under the Canada Child Tax Benefit. It also deals with the operations of the government itself — for example, debt management, income tax administration, First Nations taxation, and public service pensions and collective bargaining. These measures reflect the government's ongoing commitment to an effective, efficient, and fiscally responsible government while at the same time making new investments for a stronger economy and society.

Let me begin with health care. Medicare, one of our most cherished social programs, ensures that all Canadians, regardless of their financial means, have equal access to high quality health care services based on need, not on ability to pay. That is why sustaining and strengthening health care is a key priority of our government and a central part of this bill.

Bill C-71 implements an \$11.5 billion increase in cash for health care through the Canada Health and Social Transfer. This investment would help provinces deal with the immediate concerns of Canadians about health care and provide them with long-term stability and predictability at the same time. Provinces will receive \$8 billion through the CHST over four years beginning on April 1, 2000. The additional \$3.5 billion will be delivered in the form of an immediate one-time supplement to the CHST from funds available this fiscal year. The provinces can themselves decide how much to draw down over the next three years.

Let me explain the significance of these figures. When the funding increase reaches \$2.5 billion in 2001-02, direct federal cash support under the CHST will be \$15 billion per year. The health component of CHST will then be as high as it was before the period of expenditure restraint in the mid-1990s. However, the story does not end there. When the growing value of CHST tax transfers is added to the cash funding, total assistance to the provinces will reach a new high of \$30 billion in 2001-02.

In addition, the per capita disparities in the distribution of the existing CHST among the provinces will be eliminated. By 2001-02, all provinces will receive identical per capita entitlements, providing equal support for health and other social services to all Canadians. The government is increasing transfers for health care and providing provinces and territories with improved stability and predictability in funding.

The next measure I wish to discuss concerns the Canada Child Tax Benefit, or CCTB. As honourable senators know, the CCTB is the primary federal instrument for providing financial

assistance to low- and middle-income families with children, and delivering federal increment investments to build the National Child Benefit system.

The CCTB has two key components: The base benefit provides a basic amount of \$1,020 per child to families with incomes up to \$25,921, and progressively phases out afterwards. The National Child Benefit supplement currently provides maximum benefits of \$605 for the first child, \$405 for the second, and \$330 for each subsequent child to families with incomes under \$20,921. It becomes nil when the family income exceeds \$25,921.

Bill C-71 proposes changes to both components. Under the National Child Benefit initiative, federal, provincial and territorial governments are taking joint action to combat child poverty. The strategy is to enrich the federal benefits going to low-income families with children while better integrating federal, provincial and territorial programs to help reduce barriers to labour force participation by low-income parents. In 1997, the federal government announced its first contribution to this national endeavour — an \$850-million increase in benefits under the CCTB. This began flowing last July, increasing support to over 2 million children and families. The 1998 budget announced that a further \$850 million would be allocated following consultations with the provincial and territorial governments. Bill C-71 acts on those consultations.

• (1600)

The maximum benefit level under the NCB supplement will be increased by \$350 per child in two stages: \$180 in July, 1999, and \$170 in July, 2000. Another measure increases the net income level at which the NCB supplement is fully phased out from \$25,921 to \$27,750 in July of 1999, and from \$27,750 to \$29,590 in July of 2000. This will avoid a significant increase in effective marginal tax rates for modest-income families. These changes mean that a family with two children that earns \$20,000 will receive an increased benefit of \$700, for a total of \$3,750 per year.

In addition, benefits for modest- and middle-income families will be increased by \$184 per family, or \$92 per family for one-child families, by raising the net income threshold at which the base benefit begins to be phased out from \$25,921 to \$29,590 in July 2000. As a result, 100,000 more families will be eligible for all or part of the base benefit. Overall, the measures in the 1997 and 1998 budgets will provide \$1.7 billion for children in low-income families.

Bill C-71 establishes the design for the \$850 million allocated in the 1998 budget and delivers a further \$300 million to enhance the CCTB for modest- and middle-income families.

Honourable senators, another measure in this bill that addresses support for children in need provides for the full amount of the "single supplement" of the Goods and Services Tax credit to go to single parents earning under \$25,921. Honourable senators will recall that the GST credit was put in place to ensure protection for low- and modest-income Canadians from adverse effects of the new tax system.

In addition to the basic amount of \$199 per adult and \$105 per child, the GST credit includes a supplement of up to \$105 per year for singles, including single parents. The supplement is equal to 2 per cent of net income over \$6,456, up to \$105. For single parents, this earnings requirement means that some very low-income families with children may not get the full supplement. Moreover, the National Child Benefit system could also impact on single parents receiving social assistance due to the earnings requirement. Bill C-71 addresses this situation and ensures that single parents will not suffer this loss. GST credit benefits for low-income single parents will be raised to complement the National Child Benefit by providing them with the full value of the \$105 supplement. This measure will provide additional benefits to 300,000 single-parent families as of July 1, 1999.

The next set of measures I want to discuss, honourable senators, concerns First Nations taxation powers. In the budget, the government again expressed its willingness to continue discussions and implement taxation arrangements with interested First Nations. Budget commitments in 1997 and 1998 resulted in taxation arrangements with three British Columbia First Nations. This legislation further facilitates First Nations taxation.

The Sliammon First Nation in British Columbia would be authorized to levy a 7 per cent GST-style tax on all tobacco products and fuel sold on its reserves. The federal government would vacate the GST room where the First Nations tax applies, and Revenue Canada would collect the tax.

The Westbank First Nation, also in British Columbia, would be empowered to levy a similar tax on the sale of fuel on their reserves, in addition to their existing authority to tax tobacco and alcoholic beverages.

This bill also amends the Yukon First Nations Self-Government Act to give effect to Goods and Services Tax rebate provisions which were added to these self-government agreements last year.

I now wish to turn to an area that involves the administration of taxation. As a result of a service agreement last fall between Revenue Canada and Nova Scotia, the confidentiality provisions of the Income Tax Act are being amended so that limited taxpayer information can be released to the Nova Scotia Workers' Compensation Board, the WCB. Cooperation in audits and the exchange of program information between Revenue Canada and the WCB will also be allowed, to help ensure that amounts owed are indeed paid. Before exchanging any information, the federal government will make sure that the WCB fully adheres to the current confidentiality safeguards that apply to the sharing of information with government departments or agencies outside Revenue Canada.

Honourable senators, while today's legislation deals with, for example, important investments in national health care and the welfare of children, it also ensures that the government will not lose sight of the importance of continuing good financial management. We still carry a massive debt burden that costs over \$40 billion each year in interest payments. This is money that cannot go to further tax reduction or additional investments

in strengthening our economy and social safety net. This is why a debt reduction plan was implemented, and why the government is committed to managing the debt as cost-effectively as possible.

Bill C-71 helps to achieve this goal by amending the Financial Administration Act, the FAA, to enhance the effectiveness of debt and risk management. These amendments clarify the authority governing the government's borrowing and distribution of its debt, and bring the government's financial and risk management powers up to date. Many of these changes are technical, often confirming or clarifying existing practices. Let me highlight a few:

The existing FAA provides the government with standing authority to refinance maturing debt. The government proposes to amend this section to clarify that maturing debt can only be refinanced within a given fiscal year. Any debt not refinanced by the end of a fiscal year lapses, and cannot be refinanced in the next fiscal year. The government has followed this practice for many years. These changes do not give the government more authority to borrow.

Another amendment clarifies auctions of Government of Canada securities. The government reached agreement last fall with the distributors of its debt on new rules and terms of participation in auctions of government debt. The new rules set out the minister's authorities in more detail. They are designed to enhance market integrity and to maintain a well-functioning Government of Canada securities market which benefits all taxpayers through lower debt costs. In addition, Parliament will formally receive information annually on the government's debt management program and plans, thus strengthening the reporting structure on an important government activity.

Honourable senators, Bill C-71 also includes a number of other measures. For example, the Public Service Staff Relations Act is being amended to extend the suspension of binding arbitration until June 20, 2001 for collective bargaining in the federal public service. While the government remains committed to collective bargaining and to fair wages and working conditions, it must act responsibly. The government will now be able to enter the next round of collective bargaining and negotiate wages and benefits and the new Universal Classification Standard in a fiscally responsible manner.

• (1610)

This legislation amends the Public Service, Canadian Forces and RCMP Superannuation Acts to improve future pension benefits. One amendment to the basic formula provides for the calculation of benefits on a five-year rather than a six-year average salary. In addition, the formula by which planned benefits are integrated with Canada Pension Plan or Quebec Pension Plan benefits will be changed in plan members' favour. The new formula will mean a somewhat smaller reduction in plan benefits when an employee begins to draw CPP/QPP benefits at age 65.

The Patent Act is also being amended to clarify the authority of the Minister of Health to pay to provinces moneys collected by the Patented Medicine Prices Review Board from excessive pricing of products from patented manufacturers.

The scope of federal loan guarantees to financial institutions funding advance payments to producers under the Agricultural Marketing Programs Act is being clarified to correct the wording of AMPA and to ensure that advance payments can be provided to producers at the lowest possible cost.

We are amending the European Bank for Reconstruction and Development Act to provide the Minister of Finance with the authority to undertake the financial operations necessary to meet our commitments to the EBRD.

Honourable senators, these are the highlights of Bill C-71, the 1999 budget omnibus bill. Not every measure proposed in the February budget is contained in this bill. The broad-based income tax cuts, for example, are part of Bill C-72. The measures in that legislation reflect the government's commitment to a balanced approach in budget planning and budget making.

In his budget speech, the Minister of Finance said that the social and economic needs of a nation are not separate. He stated that the balanced pursuit of both is the key to the health and wealth of our country. That is why, with the federal books balanced, we introduced a bill that delivers historic investment in a priority area like health care and continues our work to assist children in need.

Nothing will undercut the government's commitment to providing Canadians with balanced budgets this year and in the years ahead. This type of fiscal responsibility will allow us to sustain necessary social and economic investments, maintain an economic environment that keeps interest rates low and continue the process of tax relief that all parties want.

I urge honourable senators to support this bill.

Some Hon. Senators: Hear, hear!

On motion of Senator Kinsella, for Senator Bolduc, debate adjourned.

INCOME TAX AMENDMENTS BILL, 1998

SECOND READING—DEBATE ADJOURNED

Hon. Catherine Callbeck moved second reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

She said: Honourable senators, I appreciate the opportunity to speak today at second reading of Bill C-72. This legislation arises from measures that were announced in the 1998 budget. These measures support broad-based tax relief for low- and middle-income Canadians, as well as targeting tax relief where it is needed the most.

Some of the bill's highlights include: reduced taxes for 14 million Canadian taxpayers; 400,000 Canadians removed from the tax rolls; a tax credit for interest paid on student loans; tax-free RRSP withdrawals to fund full-time education and training; an extension of the education tax credit to part-time students; and a tax credit to individuals providing in-home care for an adult relative.

The measures in this bill represent the first steps towards general income tax relief, something that the finance minister noted when presenting the 1998 budget. The government built on these steps in the 1999 budget and, together, these two budgets will provide \$16.5 billion of tax relief over the next three years. Its measures act first to reduce taxes for those who are most in need of assistance, the low- and middle-income Canadians.

Two measures in the legislation provide general tax relief. The first provides an increase in the amount of tax free income that low-income Canadians can earn. As honourable senators are aware, personal tax credits help to make the tax system more fair by ensuring that a basic amount of income is tax-free. For low-income Canadians, the amount of \$6,456 that can be earned tax-free is increased by \$500 effective July 1, 1998. The spousal and equivalent-to-spousal maximums of \$5,380 are also increased by \$500. This will effectively increase the amount of tax-free income by up to \$500 for single taxpayers earning under \$20,000, and by up to \$1,000 for a family with an income under \$40,000. The impact of this measurement is significant. It means that 400,000 low-income individuals will be removed from the tax rolls. Another 4.6 million will pay less income tax.

The 1999 budget builds on this measure by proposing to extend the \$500 supplementary amount to all taxpayers and raising it by an additional \$175, for a total increase in the basic amount of \$675. This means that Canadians can earn \$7,044 tax-free in 1999. That goes up to \$7,131 in the year 2000. As well, the maximum spousal and equivalent-to-spousal amounts will increase to \$6,055. This will more than offset the effects of inflation on these amounts since 1992.

Low-income Canadians will benefit most. Along with the 400,000 lower-income Canadians who will no longer pay any federal income tax because of this bill, another 200,000 will disappear from the tax rolls because of the 1999 budget measures. A total of 600,000 will be removed from the tax rolls because of the measures in the budget of 1998 and 1999.

I turn to the second measure in this bill that provides broadbased relief: that is the elimination of the surtax for most taxpayers. Honourable senators will recall that the previous government introduced a 3 per cent general surtax to help fight the deficit. Now that the deficit is gone, it is time to remove the tax. Bill C-72 proposes to eliminate the general surtax for those earning up to \$50,000, and reduces it for those with incomes between \$50,000 and \$65,000. The surtax will be completely removed for about 13 million income tax filers. Another 1 million will pay significantly less surtax. The 1999 budget proposes to eliminate the general surtax completely for all 15.1 million taxpayers as of July 1, 1999.

I turn now to some of the targeted measures in this bill. Bill C-72 contains measures that were introduced in the 1998 budget to help ensure that all Canadians, especially those with low and middle incomes, have an equal opportunity to participate in the changing world.

• (1620)

In the fast-changing, competitive and increasingly knowledge-based world economy in which Canada operates, not all Canadians are in a position to access the knowledge and skills that are necessary to keep on top of the changing labour market. For those Canadians who have a high school education or less, there are now 2 million fewer jobs than was the case in 1981, while over 5 million jobs have been created for those with higher qualifications. For many, financial barriers reduce access to post-secondary education. Accordingly, several tax measures to assist students are included in this legislation.

Student debt is a significant burden for many Canadians. In 1990, a graduate completing four years of post-secondary education faced an average student debt load of \$13,000. Today's graduates have an average debt of almost \$25,000. Moreover, in 1990, fewer than 8 per cent of student borrowers carried debt loads over \$15,000, compared to almost 40 per cent today.

To reduce this burden, Bill C-72 contains tax relief for students in the form of a 17 per cent federal tax credit for interest paid on their federal and provincial student loans. In the first year alone, a student with a \$25,000 loan could see a federal-provincial tax reduction of \$530. Over a 10-year paydown of a student loan, the new tax credit could mean as much as \$3,200 in tax relief.

Many Canadians often lack the resources to take time away from work to study full-time in order to upgrade their skills. Several measures in Bill C-72 will improve access to learning for Canadians throughout their lives. The first measure is the tax-free Registered Retirement Savings Plan withdrawals for lifetime learning, a plan that is similar to the homebuyers' plan. An individual who has an RRSP and who is enrolled in full-time training or higher education for at least three months during the year will be eligible to make a \$10,000 annual withdrawal from their RRSP, up to a maximum of \$20,000, to further their education. To preserve the role of the RRSPs in providing retirement income, the money will have to be recontributed to the RRSP over ten years or taxes must be paid on that amount.

The need to continually upgrade knowledge and skills can be particularly hard for another group of Canadians — the growing number studying part-time while trying to balance work and family. To help in this situation, Bill C-72 proposes to extend the education credit to part-time students. They will be able to claim a credit based on the amount of \$60 for each month they are enrolled in a qualifying course lasting at least three weeks and involving a minimum of 12 hours of courses per month. This measure will reduce the cost of education and will facilitate life-time learning for over 250,000 part-time students.

To help parents save for their children's futures, the 1998 budget introduced the Canada Education Savings Grants, legislated in Bill C-36. The government will provide a grant of 20 per cent on the first \$2,000 in annual registered savings plan contributions for children up to age 18, up to a maximum annual grant of \$400 per child, making RESPs even more attractive for Canadians saving for their children's education.

Bill C-72 makes several changes to the RESPs. Presently, educational assistance payments made out of RESPs are available only to full-time students. Taking into consideration the special needs of disabled individuals, this legislation will extend these payments to disabled part-time students. As well, Bill C-72 will increase from \$40,000 to \$50,000 the amount an individual can transfer out of his or her RESP into an RRSP if their children do not go on to higher education.

There are also other targeted measures in this legislation. Among them is a new caregiver credit, which will reduce the combined federal-provincial tax by up to \$600 for those Canadians caring for an elderly parent or a disabled family member. This new credit would assist about 450,000 caregivers normally not eligible for the infirm dependent credit.

As well, this legislation allows self-employed Canadians to deduct health and dental insurance premiums from their business income. In doing so, there is more equity in the treatment of self-employed incorporated businesses.

Honourable senators, those are some of the measures of Bill C-72 that will bring significant tax relief for low- and middle-income Canadians. The elimination of the deficit has allowed the government to begin to introduce broad-based tax relief measures, something that Canadians can look forward to in future budgets.

I urge all honourable senators to support this legislation. There is nothing controversial in the bill. It implements measures designed to assist Canadians, particularly those in need.

On motion of Senator Kinsella, for Senator Tkachuk, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirty-third report of the Standing Committee on Internal Economy, Budgets and Administration (*Senators Travel Policy*) presented in the Senate on May 6, 1999.—(Honourable Senator Rompkey, P.C.).

Hon. Bill Rompkey: Honourable senators, I move the adoption of the report.

Motion agreed to and report adopted.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

DIMENSIONS OF SOCIAL COHESION IN CANADA— BUDGET REPORT OF COMMITTEE ON STUDY ADOPTED

The Senate proceeded to consideration of the nineteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (budget—study on social cohesion) presented in the Senate on May 6, 1999.—(Honourable Senator Murray, P.C.).

Hon. Lowell Murray: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

PRIVILEGES, STANDING RULES AND ORDERS

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Privileges, Standing Rules and Orders (suspension of Rule 106) presented in the Senate on May 6, 1999.—(Honourable Senator Maheu).

Hon. Shirley Maheu moved the adoption of this report.

She said: Honourable senators, this report recommends that the rule 106 of the *Rules of the Senate of Canada* be suspended in relation to the private bill soon to be presented by Senator Taylor, which bill deals with the Moravian Church. Rule 106 requires that every application for a private bill be advertised by notice published in various publications, including the *Canada Gazette*, newspapers with a substantial circulation in the area concerned, and in the official *Gazette* of the province. My intention today is to share all information of which I am aware on this issue.

Honourable senators, the board of elders of the Moravian Church in America initiated the formal process of applying for a private bill in 1991. They wanted to make three changes to the church's incorporating act: to modify the long title of the French version; to give the board of elders of the Moravian Church a name; and to remove certain restrictions on the board's investment powers.

By 1995, the church had published a notice of the introduction of the bill in the *Canada Gazette*, the *Edmonton Journal* and the official *Gazette* of the Province of Alberta. It is estimated that these advertisements cost between \$500 and \$1,000. The bill was then drafted and was ready for introduction by its sponsor, the late Senator Twinn. Senator Twinn passed away in 1997, before either the petition or the bill was formally introduced.

French and English notices appeared in the *Canada Gazette* on March 6, 13, 20 and 27, 1993. Notices appeared in the *Edmonton Journal* on April 16, 23, 30 and on May 7, 1993, and in the *Alberta Gazette* on March 15 and 31, 1993 and April 25 and 29, 1995.

The advertisement read:

Notice is hereby given that the Board of Elders of the Canadian District of the Moravian Church in America will present to the Parliament of Canada, at the present session or at either of the two sessions immediately following the present session, a petition for a Private Act to amend its Act of incorporation in order to remove therefrom the limitation on the annual value of property that may be held in Canada by the Church, to provide the Church with a French name, and to make such other technical amendments to the Act as may be necessary.

In French, the advertisement read as follows:

Avis est par les présentes donné que le Board of Elders of the Canadian District of the Moravian Church in America présentera à la présente session du Parlement, ou à l'une des deux prochaines sessions de celui-ci, une pétition introductory de projet de loi d'intérêt privé modifiant sa loi constitutive, afin de faire abroger la restriction relative à la valeur annuelle, des biens immeubles possédés au Canada par le conseil, de faire attribuer au conseil un nom français et d'y apporter d'autres modifications au besoin.

Since March 6, 1993, the date of the original notice, there have been three subsequent sessions. Therefore, the notices have expired.

On April 25, 1999, the new sponsor of the bill, Senator Taylor, wrote to me requesting that the Standing Committee on Privileges, Standing Rules and Orders waive any further advertising on the bill. He gave three reasons: a) the identical purposes of the bill were advertised earlier; b) being a charity group, their funds are hard to come by — advertising costs between \$500 and \$1,000 — and; c) it is not the church's fault that the process has been delayed this long.

Honourable senators, pursuant to Senate rule 108:

A motion for the suspension of the rules upon any petition for a private bill shall not be in order, unless such suspension has been recommended by the Committee on Privileges, Standing Rules and Orders.

Your committee considered Senator Taylor's request at its last meeting. In light of the fact that no adverse comments have been received in response to the advertising, which has already taken place, we have recommended, in conformity with rule 108, that the provisions of rule 106 be waived for the petition of the bill concerning the Moravian Church. If we should require any additional information, our colleague Senator Taylor may be in a position to help us, since he is the sponsor of the bill.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[Translation]

DEVELOPING COUNTRIES

STATUS OF EDUCATION AND HEALTH IN YOUNG GIRLS AND WOMEN—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Losier-Cool, calling the attention of the Senate to population, education and health, particularly for young girls and women in many developing countries.—(Honourable Senator Corbin)

Hon. Eymard G. Corbin: Honourable senators, I must congratulate my colleague from New Brunswick, the Honourable Senator Rose-Marie Losier-Cool, for her initiative to debate the problems of population, education and health, particularly for young girls and women in many developing countries. I also appreciated the words of our colleague Senator Callbeck. How could I not, with three grown daughters and one granddaughter?

[English]

Honourable senators, today I wish to speak about an important topic that has not, until recently, been discussed with candour and purpose. The subject is female genital mutilation, or FGM. Among the human rights abuses that occur daily in some parts of the world, female genital mutilation is one of the worst. In addition to the brutal physical pain incurred by victims, FGM involves a severe violation of the physical and psychological integrity of defenceless young girls. One of the reasons that this issue is treated with urgency is, as the World Health Organization states, “the mortality of girls and women undergoing these practices is probably high, but few records are kept, and deaths due to FGM are rarely reported.” They result in health problems and maternity complications that persist over their lifetimes.

The problem of female genital mutilation has been an ongoing issue in many regions of the world, but especially in much of Africa and part of the Middle East. In some countries, FGM has maintained endemic proportions. For example, according to a 1998 report by Amnesty International on this issue, 98 per cent of girls in Somalia undergo mutilation. Unfortunately, this is not an isolated example. In many other African countries, the figures are above 50 per cent. In its November-December 1998 issue, *Homemakers Magazine* reported that 126 million women in 28 countries have been sexually mutilated. Today, I will speak about the origins and consequences of female genital mutilation, the international campaign against this practice, and Canada’s contribution towards the eradication of this horrendous practice.

In order to appreciate the nature of the problem, it is necessary to pinpoint the causes or origins of the practice. Though no one reason has been given, it has been suggested that FGM is a traditional, cultural requirement allowing women to maintain what they perceive to be a respectable status in the community, and a prerequisite to marriage. Others have explained that religion mandates the procedure. Yet another explanation has

indicated that female genital mutilation is rooted in the traditional local custom of the villages in which it is practised. Regardless of these different explanations, there are certain common elements present in the social dynamics of each of these situations. It has also been suggested that the practice is not a male-imposed requirement.

It is perhaps here that the real tragedy of the practice can be perceived. The procedure of female genital mutilation is performed by women themselves in the crudest of conditions on very young girls. In fact, it is being reported that the strongest proponents of female genital mutilation are those women who themselves have endured the procedure.

With respect to the continuing traditional justification of female genital mutilation, there appears to be a paradox. On the one hand, it is said that it is the poor, uneducated and underprivileged people who support the practice. On the other hand, many African politicians — mostly men, of course — who are probably educated and economically better off or well off, have not acted to ban or criminalize this practice; nor have they enforced existing laws already in place in some jurisdictions. This shows the complex yet culturally controversial nature of the challenge.

Despite the reluctance of some political leaders to criminalize the practice, the relatively recent widespread exposure of FGM has led to the establishment of multidisciplinary efforts to ban it. Many international organizations participate in this movement. The two main grounds upon which the dissuasion efforts have been based are legal and medical.

FGM is recognized as a violation of international legal principles because it is an abrogation of the fundamental human rights enshrined in the United Nations Charter. The medical community, for its part, has expressed grave concerns about the dire short-term and long-term health consequences for victims of FGM.

Perhaps the best known victim denouncing female genital mutilation is former top model Somalian Waris Dirie, upon whom the procedure was performed when she was a young girl. A short time later, Dirie fled Somalia alone and immigrated to England where she was discovered by the modelling industry. She was recently appointed as Special Ambassador for the United Nations Population Fund on the issue of female genital mutilation.

The principal organizations that have participated in working toward the elimination of female genital mutilation include human rights, health, children’s and women’s groups. These organizations reflect the multidimensional nature of the problem. There is no permanent established hierarchy of authority among these organizations, and it is not uncommon for them to cooperate to achieve their mutual goal. The main groups involved include the World Health Organization, WHO, the United Nations, the United Nations International Children’s Fund, UNICEF, the United Nations Population Fund, UNFA, and Amnesty International Human Rights Organization. These groups are committed to the eradication of excision.

While the aforementioned groups are important in terms of providing funds and lobbying governments, it is the grassroots organizations developed in African villages by African women that are critical to making the practical changes necessary. In recognition of this fact, the larger international groups have helped to mobilize local women in the villages in which FGM is practised.

At the heart of the strategy is education. The goal is to educate all women and girls about issues concerning them, especially community leaders and the excisionists, those most responsible for keeping the tradition of FGM alive.

The media have also participated in providing public education by helping to reduce the taboo nature of the issue. Though it would probably be presumptuous to speak about the possible world views of the parties involved, it can be observed that the practice is so entrenched that despite the acute pain and suffering involved, these women still feel compelled to mutilate their own very young daughters.

Interestingly, it appears that educating African women about the serious health risks associated with female genital mutilation has been more effective in raising awareness and creating a climate of change than has been the legal or human rights aspect. To this effect, it is reported that upon learning of the health risks, women in different villages have collaborated to unanimously condemn female genital mutilation. Exposing the health risks of FGM has been an especially compelling and valid argument for mothers of young girls and excisionists, those parties most involved with the practice. In fact, the health aspect is, for them, a more important factor than the human rights issue.

In order to appease supporters of female genital mutilation, medicalization of this practice has been proposed. This has been suggested by some African politicians when they are asked to criminalize the practice. I find the suggestion no less repulsive. A sterilized environment or a professional approach still does not justify the practice of FGM on innocent young girls.

Also, as Amnesty International and other associations point out, there is an inherent danger associated with legalization and medicalization. Not only does it underline the message that FGM denies women and girls their right to the highest attainable standards of integrity and health, but there is a possibility that the traditionalists may not accept it as a valid alternative, and may lead them back to the old custom.

Honourable senators, there has been a great deal done in the past while to deal with female genital mutilation in an effective and appropriate manner. While strategically pursuing this issue, however, we must always be aware of our intentions and mindful of our obligations.

At the forty-seventh annual meeting of the World Health Assembly in 1994, the director general eloquently stated:

Just denouncing the practice can make some of us feel better and self-righteous, but it certainly does not solve the problem. Our purpose should not be to criticize and condemn. Nor can we remain passive, in the name of some bland version of multiculturalism...We must always work

with the assumption that human behaviours and cultural values, however senseless or destructive they may look to us from our particular personal and cultural standpoints, have meaning and fulfil a function for those who practice them. People will change their behaviour only when they themselves perceive the new practices proposed as meaningful and functional as the old ones. Therefore, what we must aim for is to convince people, including women, that they can give up a specific practice without giving up meaningful aspects of their own cultures.

Honourable senators, let me now attempt to explain how the issue of female genital mutilation is relevant to Canada. As legislators, we have a moral responsibility to ensure that this heinous practice is eradicated. This is a human rights issue, not a question of cultural imposition. One might question this position, but who are we to judge others, after all?

Honourable senators, I say that this is a matter that transcends culture, gender, geographical boundaries, history, tradition and individual differences. There are certain fundamental human rights that must be upheld universally, especially as they apply to defenceless, innocent young girls.

• (1650)

Honourable senators, Canada has done well in the past in supporting a movement to eradicate FGM. In fact, it was one of the first Western nations to become involved in the matter.

In terms of our current contributions, as a result of correspondence I initiated with them, I have been informed by the Honourable Diane Marleau, Minister for International Cooperation, and the Honourable Lloyd Axworthy, Minister of Foreign Affairs, that indeed funding is being maintained by Canada.

In her correspondence, Ms Marleau indicated that Canada supports the anti-excision campaign through larger programs that deal with protecting the general physical integrity of women and girls. For example, in Senegal, between 1993 and 1997, CIDA spent \$730,000 on projects relating to the improvement of the social status of women. Between 1997 and 2002, another \$3.5 million is scheduled to be spent on programs involving women's rights and power, notably to counter all forms of violence against women and bring about the criminalization of excision.

There are essentially three ways in which CIDA helps work towards the eradication of female genital mutilation: through the bilateral projects of non-governmental organizations, NGOs; educational institutions and professional associations; and indirectly through financial contributions to multilateral organizations like UNICEF and the United Nations Population Fund.

The next international conference of women in the Francophonie will be held in Luxembourg in the year 2000, next year. This forum will provide yet another venue to discuss the issue and measure the progress made since the international conference on women held in Beijing in 1995.

In my correspondence with Minister Axworthy, he also confirmed that Canada supports CIDA as well as the work of NGOs in working against female genital mutilation practices. Canada has also supported resolutions adopted by the United Nations General Assembly that condemn excision of the girl child.

However, it must not stop there. Much remains to be done. We must act effectively and ensure that resources are channelled into worthwhile initiatives, while continuing to send a message to the governments of those nations in which female genital mutilation is practised that it is intolerable. This can be accomplished by making aid to these countries conditional on the enforcement of anti-excision laws. That is my view; it is not shared by everyone. We ought to have a vigorous debate on that point, which, in terms of human rights, could be the equivalent of an embargo imposition.

This is a critical time, honourable senators, in which we must proceed actively and deliberately to achieve the humanitarian goal of abolishing female genital mutilation. If the anti-FGM movement is to effectively gain ground, it is of the utmost importance to provide access and support at the local level and help those most in need help themselves.

It is our duty to ensure that the estimated 6,000 daily victims of FGM are heard and that action is taken to alleviate their misery.

[Translation]

I would be remiss in closing without acknowledging the contribution made by a former Senate Page, Aneel K. Rangi, in researching and preparing my speech. I thank her for her excellent work.

On motion of Senator Corbin, on behalf of Senator Losier-Cool, debate adjourned.

INTERNATIONAL WOMEN'S WEEK

PARTICIPATION OF WOMEN IN LEGISLATIVE INSTITUTIONS—INQUIRY—DEBATE ADJOURNED

On the Order:

Resuming debate on the inquiry by the Honourable Serge Joyal, P.C. calling the attention of the Senate to International Women's Week, and to the participation of women in the legislative institutions of Canada, at the federal and provincial level, and particularly in the Senate of Canada.

Hon. Lucie Pépin: Honourable senators, to commemorate International Women's Day, my honourable colleague Senator Joyal paid tribute to Canadian women by making a moving appeal for more fair and equitable representation between women and men in political institutions.

Senator Joyal condemned, and rightly so, a pervasive myth in Canadian politics, namely that progress is constantly being made and that we are gradually headed for equal representation

between men and women in politics. After over 75 years of women's participation in Canadian politics, women only account for 20 per cent of members in the House of Commons, and 30 per cent in the Senate. This is indeed very gradual progress.

[English]

Statistics indicate that women are the most under-represented social group in the elected assemblies of the world. While women have been able to access many non-traditional occupations over the last 30 years, legislative office remains an elusive goal and desire for most Canadian women. Why is this so, and how can we be so complacent in the face of such an obvious threat to the legitimacy of our democratic institutions?

To Senator Joyal's very thoughtful comments on the barriers facing women in politics, I should like to add a few of my own. The first point I wish to make is that women's underrepresentation in the political process should come as no surprise. It is simply a reflection of the wider inequality between the sexes in our society.

Political history in Canada and around the world has taught us that simply guaranteeing procedural fairness in the electoral system and applying the same electoral rules equally to men and women will not achieve gender parity in politics. This is a route we have been following until now, and we have seen the results: We have not been able to break 25 per cent representation for women in any legislature in Canada after 75 years of trying.

Some would say that women simply are not interested in running for office or that it is hard to find female candidates in the numbers required to move toward parity. Honourable senators, this is not an issue of supply. It is not an issue of demand, either, as the Canadian electorate has proven very receptive to female candidates. We have highly successful and accomplished female politicians to prove it.

Unfortunately, the barriers limiting women's participation are more systemic and insidious than simple supply-and-demand arguments.

I wish to draw the attention of honourable senators to the research and recommendation put forth in 1992 by the Royal Commission on Electoral Reform and Party Financing. After hearing women, women parliamentarians and women's groups from across the country, and after undertaking in-depth research on women's participation in Canadian politics, the commission concluded that the origin of women's underrepresentation lay less in the voting booth than earlier in the political process. Women have trouble entering politics because, on many levels, the playing field is not equal between men and women.

[Translation]

The commission noted that it was difficult for women in Canada to overcome the hurdle of the nomination process established by political parties. Women are less likely than men to be selected as candidates in safe or relatively safe ridings. They are often chosen to be candidates in losing ridings. Women are twice as likely to be competing with another candidate during the nomination process.

This means that women, whose financial situation is usually not as good as that of men, are often forced to go further into debt to enter federal politics, because they face greater rivalry during the nomination process.

The financing of political campaigns was also mentioned as a significant obstacle for women entering politics. Many women candidates are from the health and education sectors, while men tend to come from the business or legal sector. This means that women have more difficulty finding the necessary funds among their peers. On average, women earn less, their financial situation is not as sound, and they have a harder time than men getting bank loans to make a career in politics.

Moreover, because of their more precarious financial situation, women are hesitant to embrace political life, which is uncertain and temporary by nature.

[English]

Childcare, in particular that of young children, was also cited as a limiting factor in the decision of women to run. To excel in politics, as in many other spheres, you must start earlier and work consistently towards the top. It was found that many women who entered politics did so later in their careers, once their children were grown. Many of the most successful female politicians in Canada have no children.

Finally, the commission found that the policy and practice of political parties were more significant in determining the level of women's participation than the electoral system adopted in a given country.

Proportional representation is often put forward as a panacea for increasing women's participation in politics. The commission concludes, however, that in countries where women were a strong political force, mandatory requirement existed within political parties to identify, nominate and elect more women candidates.

[Translation]

After hearing from witnesses, the commission recommended the following measures to increase the number of women in politics: That political parties and riding associations conduct more rigorous and systematic searches when seeking candidates so as to identify and nominate the most representative candidates; that ceilings on spending and tax credits apply from the moment candidacy is announced, which would help women to campaign on a more equal footing with their wealthier male counterparts; that deductions be allowed for child care expenses during campaigns to seek nomination and electoral campaigns, for both male and female candidates; that leave without pay be granted to seek nomination or run for office.

Should the overall representation of women in the House of Commons fall below 20 per cent, a plan should be implemented to encourage political parties to elect more women and, if a caucus has more than 40 per cent women, a political party should be reimbursed up to 150 per cent of its election expenses.

[English]

Honourable senators, women, who make up 51 per cent of Canada's population, comprise only 20 per cent of our elected politicians. We accept this fact so easily and continue to call ourselves a strong democratic nation. It astounds me that since 1992 when the commission's findings were released, virtually no action has been taken to facilitate greater participation by women in Canada's political process. In the face of this staggering complacency, I quote the former chairwoman of the Swedish Equality Commission who said:

Everyone agrees that equality is a good thing — that we must have equality provided it doesn't cost anything, as long as it will require only superficial changes, provided that we need do nothing more than make pretty speeches, or as long as it is women who pay the price for it...

The current situation is unacceptable. Before every election, political parties scramble to be seen to be fielding more women candidates. After every election, the results paint a different picture. Let us finish with pretty speeches and actually do something to ensure that more women are successful in entering politics. The evidence is there. The analysis has been done. We know what we must do. What is stopping us?

I call on the government to adopt the recommendations made by the Royal Commission on Electoral Reform and Party Financing. I call on Canada's political parties, especially my own, to set goals toward gender parity and to take affirmative action in supporting, identifying and nominating ever-increasing numbers of female candidates.

Finally, I call on Canadian women to demand, more passionately and vocally than ever before, their rightful place in the democratic institutions of this country.

On motion of Senator Carstairs, debate adjourned.

STATUS OF PALLIATIVE CARE

INQUIRY—DEBATE ADJOURNED

Hon. Sharon Carstairs (Deputy Leader of the Government) rose pursuant to notice of May 6, 1999:

That, in recognition of National Palliative Care Week, she will call the attention of the Senate to the status of palliative care in Canada.

She said: Honourable senators, I am pleased to rise today, at the beginning of National Palliative Care Week, to call the attention of the Senate to the status of palliative care in Canada.

In recent years, palliative care among patients and their families has rapidly increased. This growth can largely be attributed to an increase in Canada's elderly population and an enhanced need for adequate end-of-life care and treatment. Palliative care provides physical, emotional, psychological, spiritual and practical support to people with life-threatening illnesses and their families.

The focus of palliative care is neither to hasten nor postpone death. Rather, it brings family members, friends, volunteers, physicians, nurses and other health care professionals together as a care-giving team, so that patients can live their remaining days in dignity and comfort, surrounded by people who love them.

Palliative care is a unique medical experience. Once a patient has reached the final stages of their illness, palliative care discontinues the fight for life and, instead, focuses on the coming stages of decline, death and bereavement. This acceptance of dying prepares the patient for the inevitability of their condition, rather than providing false hopes or expectations. Search for a cure is submerged while realistic hope for the quality of their remaining life is reinforced.

Palliative care patients are of all ages, and paediatric palliative care is becoming a more popular alternative for families who have children suffering from terminal illnesses. Loss of a child is by far the hardest experience a parent can endure during the course of a lifetime. In many instances, parents will exhaust all treatment possibilities before accepting the reality of their child's fate. This process of continual treatment and failure is both stressful and painful for all involved. This type of disappointment can often be avoided by paediatric palliative care, as it allows children who are suffering from an incurable illness to enjoy their final days free from treatment and medicines which have defined their young life.

• (1710)

I think of a young student I taught who, in eighth grade, was diagnosed with a brain tumour. He was operated on. He received chemotherapy and radiation. His parents were both doctors and they wanted to do everything possible to preserve his life.

He came back to school where we provided him with special tutoring. He graduated with his class. In his first year of university, the tumour returned. He made the decision that, this time, it was right for him to go. He had to fight his parents on that because his parents, like all parents, wanted to keep him alive. Yet, when I attended the funeral service some months later, they spoke about the fact that the night before he died they had gathered around his bed and played the guitar while he and they sang together. At the funeral service, we sang those songs together. When he went, he went in peace and dignity, with the love of those he cared most about surrounding him.

In 1995, the Special Senate Committee on Euthanasia and Assisted Suicide studied the issue of palliative care. This issue was not originally included in the committee's mandate. However, again and again, members of the committee heard from witnesses that people need better support during the dying process and in dealing with the circumstances surrounding death. It became clear to committee members that palliative care could meet many of those needs. As a result, palliative care and the limitations and restrictions on palliative care services in Canada became an integral part of the committee's report.

The special Senate committee made five specific recommendations with respect to palliative care. It recommended

that the government make palliative care programs a top priority in the restructuring of the health care system. To date, the necessary program and research funding to make palliative care an integral component of the Canadian health care system are still lacking. We filed that report four years ago. However, there has been some progress in certain provinces, such as my home Province of Manitoba, to increase palliative care funding.

The committee also recommended the development and implementation of national guidelines and standards pertaining to palliative care. Health Canada originally published guidelines in 1999. Witnesses before the committee testified that these 1989 standards were out of date and needed modernization. Since the committee's report in June, 1995 — four years ago — the Canadian Palliative Care Association has published its own guidelines, in late 1995, arrived at through a nationwide consensus. Although these guidelines are similar to Health Canada's 1989 guidelines, they have never been formally adopted by Health Canada, although Health Canada has indicated its support in principle.

The Canadian Palliative Care Association plans to launch a second round of consultations this summer in an effort to create a new set of standards for the millennium. Furthermore, the committee emphasized the importance of an integrated approach for palliative care whereby delivery of the care, whether in the home, in hospices, or in an institution like a hospital or a senior citizens' home, could be coordinated with maximum effectiveness.

Many palliative care facilities, such as the Elizabeth Bruyère Centre here in Ottawa and the St. Boniface Hospital in Winnipeg, offer superior palliative care to their patients due to the experience and longevity of their programs and their highly skilled workers. Despite this, more patients are choosing to remain at home and receive their care in the comfort of a familiar environment. In these cases, it is important to ensure that all patients receive similar care, regardless of their chosen treatment location.

The training of health care professionals in all aspects of palliative care was the fourth recommendation of the Senate special committee. In 1995, most recognized Canadian medical schools realized the need for palliative care education, yet none of the existing 16 medical faculties dealt with palliative care in their core courses. Instead, palliative care, if taught at all, was taught as a component or small section of other related courses, barely providing medical students with an adequate level of information or training in this field.

Since 1995, there has been little action on this recommendation. Currently, McGill University is the only Canadian school to offer a more comprehensive palliative care program, thereby improving the knowledge and skill level of their graduates. This is clearly unacceptable. As more Canadians are choosing palliative care as a health care option, proper training in palliative care and pain control are essential components of our Canadian health care system.

The final committee recommendation encouraged that research into palliative care, in particular pain control and symptom relief, be expanded and improved. Canada was once a world leader in palliative care research as Canadian doctors were, at one time, able to obtain grants and bursaries from many international sources. This funding enabled them to conduct their research and make gains in this most important field. However, over the past few years, many of those countries have recognized the importance of palliative care. As a result, they have begun to disallow foreign doctors from receiving those important research funds, choosing to select candidates from their own medical communities. Consequently, there has been a decrease in Canadian-based research due to a shortage of available funding from within our country.

Canada needs to reclaim its position as a world leader in palliative care treatment. To do so, we must provide our doctors with the funding required to continue their important work and research.

Honourable senators, as I have said before, it has been almost four years since the Special Senate Committee on Euthanasia and Assisted Suicide tabled its final report. Although there have been some advances made, in most cases we are a very long way from implementing the committee's recommendations. However, the need for quality palliative care has never been greater. According to research conducted by the Canadian Palliative Care Association, nearly 3 million Canadians already care for someone who has a long-term health problem. Yet, only 6 per cent of our population feels adequately equipped to care for a loved one facing a life threatening illness without outside assistance.

Added to the fact that, in the next 10 years, the number of Canadians aged 65 and older is expected to increase by 20 per cent, these figures confirm that Canada's population is aging, and expectations for end-of-life care are continually increasing. However, a lack of public education and knowledge about palliative care has often left patients and families uninformed about the options they possess at the end-of-life stage or, alternatively, has left them with misgivings about the true purposes of palliative treatment.

A national survey of Canadians conducted by Angus Reid in 1997 shows that only 53 per cent of Canadians who responded had heard of palliative care, and only 30 per cent could define palliative care, yet hospice palliative care is the kind of care close to 90 per cent of Canadians say they want at the end of their life. A nationwide public education campaign could help Canadians on this important form of health care.

Honourable senators, palliative care is, of course, a national issue. However, as health care in Canada is organized by the provincial government, I should like to take some time to discuss the status of palliative care in my home province of Manitoba.

In November of 1974, the first Canadian palliative care unit opened at St. Boniface General Hospital in Winnipeg. This hospital would become the first of many palliative care facilities, and it remains one of the 650 palliative care organizations across Canada today.

This year has been quite positive for the palliative care community in my province. The Government of Manitoba recently announced that it will spend \$3 million over two years on palliative care standards and services. The province's health authorities will receive \$1.2 million to enhance existing services in institutions through community services in private homes. The remaining \$1.8 million will be used by the Winnipeg Health Authority to renovate a 15-bed palliative care unit at the St. Boniface General Hospital. In addition, each of the 12 regional health authorities outside of Winnipeg will hire palliative care coordinators in the first year of the program in an effort to link patients to available services.

In the second year, the province plans to staff a 24-hour response team with doctors and nurses to make house calls. The Winnipeg Hospital Authority and the Winnipeg Community and Long Term Care Authority will hire a director to set consistent provincial standards for palliative care. These measures are long overdue. Already, the program is expected to reduce waiting lists for palliative beds while currently freeing up 40 more beds for the terminally ill.

• (1720)

Palliative care in Canada is constantly changing, and the advancements made in this specialized sector of medical care continues to improve and develop. Despite this, measures must be taken to ensure that everyone in our country has equal access to quality palliative care, and that our health care providers are able to meet the increased demands for this form of end-of-life care.

The recommendations of the Special Senate Committee on Euthanasia and Assisted Suicide remain as valid today as they were in June 1995. Provinces must coordinate their efforts to improve palliative care so that national guidelines and an equalization of services can be attained. Education for health care providers and all Canadians must be made available so that, when the time comes, they are able to make the necessary decision concerning their end-of-life care and treatment.

Palliative care is an essential component of our Canadian health care system. With the pressure of an increasingly elderly population, and societal standards for improved end-of-life treatment and care, we, as legislators, must make the necessary changes to ensure the prosperity of palliative care today and in the future. By continuing to implement the recommendations of the special Senate committee, and by furthering our knowledge of palliative care, we can ensure that all Canadians receive end-of-life care which not only suits their needs but also makes the last stages of their life comfortable and peaceful for them and for their families.

Hon. Senators: Hear, hear!

On motion of Senator Carstairs, for Senator Wilson, debate adjourned.

The Senate adjourned until Wednesday, May 12, 1999 at 1:30 p.m.

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(HANSARD)

Wednesday, May 12, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Wednesday, May 12, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

INTERNATIONAL YEAR OF OLDER PERSONS

Hon. Marisa Ferretti Barth: Honourable senators, as a member of the Bureau québécois pour l'Année internationale des personnes âgées, I am extremely pleased to speak to you today to draw your attention to an event that is very dear to my heart.

In this the International Year of Older Persons, at my suggestion, Canada Post and the Royal Canadian Mint have chosen to mark the contribution of our seniors by issuing a special commemorative coin and stamp, respectively, to mark this special occasion.

As the years go by, the proportion of seniors in the world is going to rise from one person in fourteen to one in four. The United Nations felt it was important to mark a demographic change of this magnitude. The special designation of this year is part of the UN's International Plan of Action on Ageing.

[English]

Today's senior citizens have many more options. For many, retirement is now the beginning of something new.

Older people have specific concerns about health care and personal safety, and there is the need, which seniors share with all citizens, for dignity and respect.

[Translation]

In this International Year of Older Persons, we hope to improve understanding, harmony and mutual support among the generations. We wish to enhance appreciation of the invaluable contribution older persons have made to our families, our communities and our country. We want to see our society react to population ageing and diversity in this rapidly changing world.

Throughout 1999, a wide range of organizations and individuals of all ages will be taking part in activities celebrating older persons and their unequalled contribution to Canadian society.

We will also make a point of honouring the work of such organizations as the Conseil régional des personnes âgées

italo-canadiennes, which provides inestimable assistance and services to seniors in the greater Montreal region.

On behalf of Canadian seniors, I wish to express heartfelt thanks to the Minister of Public Works, the Honourable Alfonso Gagliano; the Chairman of the Board of Directors of Canada Post, the Honourable André Ouellet; and the President of the Royal Canadian Mint, Danielle Wetherup, for their magnificent cooperation.

By minting a coin and issuing a stamp, we are in a way immortalizing an event as special as the International Year of Older Persons and leaving a mark in history. I would also point out the great talent of artists Paul Hogson and Shelagh Armstrong-Hogson, who created these true works of art.

Honourable senators, we may be proud of our federal organizations that have recognized the remarkable strength of our elders and of all the cultural communities in Canadian society.

[English]

NATIONAL NURSING WEEK

Hon. Lowell Murray: Honourable senators, I should like to add a few comments to those made yesterday by Senator Lavoie-Roux concerning National Nursing Week.

First, we should take the occasion to say "Thank you" to Canada's nurses, whose professional lives are of extraordinary dedication and of extraordinary service, day after day. All of us know of people who owe their lives to timely diagnosis or action by a nurse, often in the absence of a physician. Such instances are so numerous, one is led to believe they are almost routine.

Second, the contribution of nurses to our health care has been undervalued in every way. By any measure of the intense pressures and demands on them, and by any comparison to other professions, nurses are underpaid.

Third, future demands on the health care system will surely require much more by way of involvement on the part of nurses. The nursing profession itself is working to increase the level of expertise of nurses to nationally recognized standards. Since 1991, the Canadian Nursing Association has certified more than 8,500 registered nurses in nine specialties.

Fourth, nurses have been the main professional victims of bad and blinkered public policy. As the Honourable Monique Bégin has said, it is mainly, almost only, nurses who have lost full-time employment and income, and worse, who are witnessing the deprofessionalization of their occupation.

Honourable senators, the ruthlessness of the federal government's multi-billion dollar retreat from health care has been equalled only by the short-sighted policies of the provinces. Many nurses have been forced to accept the insecurity of casual, part-time work. Forty-eight per cent of all nurses employed in this country today are working part-time. Many jobs that should require nurses have been filled by underqualified people. There have been protracted and demoralizing collective-bargaining disputes in almost every province.

Not surprisingly, the end result is that we are coming to a critical shortage of nurses in Canada. The nursing workforce is ageing; recruitment of new people to the profession is way down; the number of graduates has been in steep decline, and the registered nursing pool is not renewing itself at a sufficient rate.

• (1340)

I know that the responsibility to deal directly with many of these problems does not belong to the federal government. However, it must be clear by now that the ritual invocation of the Canada Health Act by federal ministers is irrelevant to many of the most pressing problems now facing the health care system. Only the federal government is in a position to ensure a comprehensive renegotiation of our health care system. Such a renegotiation will help to define, among other things, the future roles of the various health care professionals in the system. Such discussion will find that nurses are at the core of any future health care system, and must be given their due.

AGRICULTURE

WORLD TRADE ORGANIZATION NEGOTIATIONS— FUTURE OF SUPPLY MANAGEMENT PROGRAMS

Hon. Eugene Whelan: Honourable senators, I wish to take the time today to express my concerns about the World Trade Organization and the future of the agriculture industry in Canada. As you know, we are heading into another round of trade negotiations at the World Trade Organization when we will have to negotiate our agricultural trade barriers.

There was a time when agricultural trade negotiations would not have been a cause of great concern to Canadians. However I, for one, am worried. Recent events in the area of trade in agriculture, especially in dairy products, have a great many people wondering whether our system of supply management is safe. Similarly, many of us are wondering whether the Canadian system, which has done so much for both our farmers and our industries — and, overall, it has been a healthy business world for them — can survive under the pressure of the so-called "World" Trade Organization and the role of the United States of America in that forum.

Let me give you an example of what I am talking about, honourable senators: I am sure you are all aware of the recent WTO decision, brought on by a challenge from the United States of America and New Zealand, which ruled that Canada's dairy

export pricing constitutes an illegal export subsidy. The WTO also said that we can no longer limit our import quota to the milk brought over the border into Canada by consumers. The WTO is telling us that we must allow more access to foreign dairy products.

I see this as a potential threat to our industry. It took a lot of work, a lot of years, and a great deal of goodwill between federal and provincial governments and processors in this country to create a system that would provide stability and protection for our farmers.

The viability of our system of supply management is now being brought into question. People are questioning the survival of this system. Many honourable senators will have read the series in *The Ottawa Citizen* last week about the quota system. I want to state for the record that it will be tough to fight the United States of America on agriculture. It will also be tough to defend our supply management system from outside pressures. I will return later to the issue of the U.S. trade agenda and the U.S. pressures. However, it will be nearly impossible to defend our industry from both outside pressures and inside pressures at the same time.

I also have a few things to say about the criticism that I read last week in the newspaper. These articles in *The Ottawa Citizen* claimed that supply management was driving farmers out of Canada, yet only two or three farmers were interviewed. The reality, honourable senators, is that while the article cites three farmers who moved south of the border, there were some 200 new dairy farmers in Ontario alone last year.

With supply management and the quota system, we have succeeded in sustaining a viable dairy industry in Canada. That is to say, we have managed to protect smaller farming operations from the kind of vertical integration that we have seen in the United States industry. We have a lot of family farms in Canada. The average dairy farm in Canada has 52 cows. Through the supply and management system, we have been able to create the stability that has made financial planning possible for farmers. By managing supply rates — which is done by the farmers, not by the government — we have avoided the kind of boom and bust that used to send farmers into financial ruin.

Honourable senators, I have one last point before I move on to the U.S. trade practices last June. Almost one year ago, global commodity prices fell to their lowest level in five years. Economists told us that this was a symptom of the "Asian flu." The prices for commodities such as copper, aluminum and forestry products plummeted because the Asian economy plummeted, and Asian demand plummeted. However, the Canadian dairy industry was protected.

The Hon. the Speaker: Honourable Senator Whelan, I regret to interrupt you, but your three-minute speaking period has expired. Do honourable senators wish to grant an extension?

Hon. Senators: Agreed.

The Hon. the Speaker: Please proceed.

Senator Whelan: Thank you, honourable senators.

The Canadian dairy industry, as I said, was protected. It was vaccinated against the Asian flu. What was that vaccination? It was supply management. Oil prices hit 12-year lows in 1998. What did the OPEC countries do? They cut production. However, it is easier to cut production on an oil well than on a cow. You just turn a valve on an oil well to cut production, but try doing that with a biological entity such as a cow and see what happens!

The OPEC countries controlled the supply in order to provide their producers with some price stability. We saw an increase of 10 cents per litre in our gasoline prices on the supposition that that would control supplies, et cetera. Our tank farms and our tankers are as full as they have ever been, yet we are paying through the nose.

Honourable senators, despite the ice storm at the beginning of 1998, which hit Ontario and Quebec farms very hard, and despite the Asia flu, which caused an economic crisis in other commodities such as the grain and the oilseed sectors, revenues in the dairy sector actually increased in 1998. A lot of that was due to supply management. It is most important to note, honourable senators, that consumers paid 35 per cent less for their dairy product, on average, than they did in the United States of America.

Coming back to the WTO and the U.S., I wish to start by reminding honourable senators that in the Uruguay Round negotiations, Canada abandoned its defence of Article XI, which permitted import restrictions and protected supply management. The government felt that its new tariffication system would protect our unique dairy system. Even after the WTO ruling, the Minister of Agriculture, the Honourable Lyle Vancleef, insisted that the ruling had no bearing on Canada's supply management system and that the ruling would not factor into the upcoming trade negotiations. He said that Canada was committed to supply management, and would continue to defend its dairy industry.

I believe the minister, but I also believe that the Americans are as committed in to attacking our supply managed system as we are committed to its defence. The U.S. trade representative, Charlene Bashefsky, has said that this ruling is an important victory for the U.S., and it will be a factor in the trade negotiations. She has also said that the decision should defer further attempts to circumvent WTO commitments, and provide a strong basis for entering into a new round of trade negotiations on agriculture; that this is an important decision for the U.S. dairy industry and for all of our agricultural industries. The American trade representative further stated that:

The decision reinforces the disciplines on agricultural export subsidies which bind all WTO members. We look forward to finally opening the border for commercial milk shipments.

Granted, this ruling only affects about 5 per cent of our total milk production in Canada, but that could mean a loss of as much as \$200 million a year from our dairy exports.

This is just a first step. What really worries me is the U.S. approach to trade. They are exerting much control over the WTO. A few months ago, the European Community held an emergency meeting over U.S. attempts to impose 100 per cent tariffs on certain EU goods because the U.S. claimed that the European Community was discriminating against bananas grown in Latin America and sold by U.S. companies such as Chiquita. The European Community accused the U.S. of declaring war on countries that failed to toe the U.S. line on global trade rules, and maintained that the U.S. action was "unjustified, unauthorized, unlawful and unacceptable."

We could talk for a long time about the recent history of U.S. unilateralism. There are a number of precedents, but I do not have time to enumerate them today. On the one hand, we are committed to protect supply management in the Canadian dairy industry but, on the other hand, we are committed to the WTO and the U.S. version of trade liberalization.

The Americans have made it clear that they are targeting the Canadian supply management systems, as well as enterprises such as the Canadian Wheat Board or state enterprises. I might point out that Japan uses state enterprises to buy their products and to run their organization, as does China and several other countries in the world. However, honourable senators, I will not get into grain and beef today. I will leave that for another day.

• (1350)

We need to ask ourselves what kind of real, concrete protection we can offer to our dairy industry against the United States of America. We should also be asking ourselves some serious questions about the WTO. We need to have the answers to these questions before we go into the next round of negotiations.

NATIONAL DEFENCE

PROPOSAL TO REDUCE RESERVES

Hon. J. Michael Forrestall: Many senators were somewhat shocked to hear that this government now has a proposal before it to cut the reserve army, the militia of this country, from 134 units to 93, this in the heat of the Kosovo war.

The militia, as we all know, was Canada's army in the First and Second World Wars. It was the backbone of the army sent to Korea. Today, 20 per cent of our peacekeeping forces going overseas are made up of reservists.

The militia is the only mobilization base left in this country. Our regular army numbers only 20,000. The militia gave sterling service at home during the ice storm, the Saguenay flood, and the Winnipeg flood. All of us have additional recollections.

The proposed plan is to reduce the combat arms portion of militia from 75 per cent of its total strength to 35 per cent. The bulk of the new reserve unit would be combat service support. Infantry units would be cut from 51 to 20; armour from 17 to 10; artillery from 20 to 11; and field engineers from 12 to 8. It would be something of a massacre for the reserve forces.

The effect of this proposal on the military would be nothing compared to the disaster it would create in rural Canada. What of the cadet corps, the cradle for citizenship training for Canadian youth? What about the part-time jobs and full-time jobs that the militia provides? It is something akin to a scorched earth policy that is being adopted by this government.

Honourable senators, this proposal is unacceptable to me and to many Canadians. It demonstrates how far this government has sunk, presumably to meet the costs of the war in Kosovo. They have slipped into a war which the British Chief of the Defence Staff says will go on for the foreseeable future. Russia is in crisis. A ground war looks more likely at this point in time.

If we are to commit Canadians to the battle over Kosovo, we will need reinforcements. Where will they come from? The regular army is somewhat at wits' end to answer this query. Resources have to come from the militia. Yet the government is making plans for a massive cut. It is completely unacceptable and will be fought every step of the way.

I will hold personally responsible the Leader of the Government in the Senate for the historic units in our own province of Nova Scotia. We will hold the government accountable for these cuts and their impact upon rural Canada.

ROUTINE PROCEEDINGS

PRIVATE BILL

CANADIAN DISTRICT OF MORAVIAN CHURCH OF AMERICA—PRESENTATION OF PETITION

Hon. Nicholas W. Taylor: Honourable senators, I have the honour to present a petition from the board of elders of the Canadian District of the Moravian Church of America, of the City of Edmonton in the Province of Alberta; praying for the passage of an act to amend the act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.

QUESTION PERIOD

AGRICULTURE

DECLINING STATE OF INDUSTRY—RESPONSE OF GOVERNMENT

Hon. Leonard J. Gustafson: Honourable senators, I have a question for the Leader of the Government in the Senate relating to agriculture. We have been hearing in the Agriculture Committee about the state of agriculture in Canada. We have been hearing words like "crisis," "bankruptcies," "farm sales." A very serious situation exists out there, especially in the grain sector.

Yesterday, the Minister of Agriculture appeared before the committee. A very serious concern was raised on behalf of, I believe, all members of the Agriculture Committee. Commodity prices are below 1930 values. To give one quick example, durum wheat sold one and a half years ago at \$8 per bushel. Now it is selling below \$3. Input prices are increasing. There is no way that farmers can break even, let alone make a living in the grain industry today. Yet it seems to me that the government is not really taking this situation seriously. When we were in government, \$6 billion went into the budget for agriculture. Today, that amount is less than \$2 billion despite the budget surplus.

My question is: Have we lost sight of an industry which is most important to this country and which is hurting?

The Leader of the Government in the Senate has carried this message to the cabinet. Does he feel that the Prime Minister and the government is dealing seriously with this situation?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Honourable Senator Gustafson, as Chair of the Agriculture Committee, is very familiar with the problems in agriculture. He speaks eloquently about those problems. He is probably only second to former minister of agriculture Senator Whelan as the most experienced agriculture spokesperson in this chamber.

Concerns related to the issue have been expressed by Senator Gustafson, by the Agriculture Committee and by members on this side. I take those concerns very seriously. I have had consultations on a regular basis with the Minister of Agriculture.

Honourable senators will recall that the Agricultural Income Disaster Assistance Program covers all commodities in all regions of the country and is providing the same level of federal benefits regardless of the province in which the farmer is located. The program respects Canada's international trade rights and obligations.

• (1400)

It could provide up to a total, if my recollection is correct, of \$1.5 billion to farmers under a 60-40 cost sharing arrangement, the ratio used under the current federal-provincial farm income safety net agreements.

Senator Gustafson: Honourable senators, the situation becomes more serious as we look to the subsidies that are paid by the United States and Europe. The Senate committee travelled to Europe, and I do not think a single member of that committee was convinced that the Europeans would go off subsidies. They will not, in my opinion, get away from subsidies. The American President, in his State of the Union address, said very clearly that his government will stand behind their farmers in this so-called trade war. In last round of the trade talks, Canada pretty well gave up everything we had. It seems the Europeans and Americans never gave an inch.

Does the Leader of the Government in the Senate feel that farmers can exist without some support and backing from government, given the trade situation that exists in the world?

Senator Graham: Honourable senators, obviously the government does not feel that farmers can carry on without some assistance, and that is why the AIDA program was enhanced. As I said, the Government of Canada and other agencies, through the combined efforts of federal-provincial cooperative agreements, the 60-40 cost sharing agreement, have provided that up to \$1.5 billion could be made available to farmers.

I recognize it is a very serious problem. Again, I give an undertaking to Senator Gustafson that I will bring his concerns and the concerns of others to the attention not only of the Minister of Agriculture but also of the Prime Minister.

Hon. Mira Spivak: Honourable senators, as Senator Gustafson has indicated, farmers in Canada, and particularly in Saskatchewan, Manitoba and Prince Edward Island, are in a crisis as bad as that of the 1930s. They have fallen victim to world prices which are far below even the costs of production currently.

Realized net farm income in Canada, that is the income that is calculated before any allowance is made for the value of farm labour or management or principal payments on farm land, is projected at \$9,700 per farm in 1998 and \$7,375 in 1999. These figures are from Statistics Canada and Agri-food Canada.

In Saskatchewan, Manitoba and Prince Edward Island, the situation is even worse. In Saskatchewan, realized net income is projected to be just \$3,408 in 1998 and a negative \$3,047 in 1999. In Manitoba, realized net farm income will be half of the recent average in 1998 and a quarter of that average in 1999, and that is before a farm family pays themselves a single dollar for labour, management and return on equity. They have already lost money. Prince Edward Island is in as bad a situation.

It is important to note that crop and livestock producers are the hardest hit, while the supply management sector — dairy, chicken, turkey and egg producers — have relative security and prosperity.

While long-term solutions involve durable, stable and predictable farm income support and other measures, such as a return to better-regulated grain freight rates, still, we need an

interim solution. The former government poured billions into disaster relief for farmers.

What is the Government of Canada prepared to do for farmers in this current crisis?

Senator Graham: Honourable senators, I just indicated that, through AIDA, the Government of Canada, in cooperation with the provinces on its 60-40 sharing formula basis, is providing up to \$1.5 billion dollars of farm aid.

I recognize, as Senator Spivak has pointed out and Senator Gustafson before her, that there are particular problems in Saskatchewan, Manitoba, and Prince Edward Island. I know that the Minister of Agriculture and Agri-food, the Honourable Lyle Vanclief, is in touch with his provincial counterparts, and there are ongoing discussions with provincial ministers of agriculture. I know that he has recently spoken to the Minister of Agriculture of Nova Scotia.

Senator Spivak: Honourable senators, the Keystone Agricultural Producers, a big farm organization in my province, have said that they want changes in the second year of the disaster assistance program so that more needy farmers are eligible. They doubt that the government will come anywhere near distributing the \$1.5 billion they announced. They feel that the program was designed with some features that minimize the payouts.

In Canada, one-third of the Net Income Stabilization Account, or NISA, participants, representing 19 per cent of eligible sales, have account balances which average just \$395. The disaster programs that we have in place right now are not adequate to deal with a crisis of such dimension.

Has the Leader of the Government in the Senate any idea what other proposals the Government of Canada has for what is really an unbelievable crisis? I do not think the public is aware of how bad it is.

Senator Graham: Honourable senators, we all recognize that our farmers are the custodians of the bread basket of our nation. I recognize the tremendous work done by the Agriculture Committee. I assure the Honourable Senator Spivak that I have discussed the issue on a regular basis with the Minister of Agriculture.

I suggest that the Agriculture Committee, which has gained such important national recognition for its work in the past weeks and months, consider communicating directly to the Minister of Agriculture to reinforce what I have conveyed to him myself.

Senator Spivak: Honourable senators, the committee is doing some things and has had hearings and will continue to do so under the capable leadership of our chairman and deputy chairman, but we feel that the Senate has a role to play since it has a representative of the federal cabinet here. The message we wish to convey is that this is not your normal, ordinary, garden-variety crisis. It is something of immense proportions.

Senator Graham: Honourable senators, I am a member of several cabinet committees which the Minister of Agriculture also attends. He will be at a committee meeting this afternoon of which we are both members. I shall bring to him again the concerns that have been properly expressed. Once again, I urge the Agriculture Committee, which has done such outstanding work, to consider writing a letter as well directly to the Minister of Agriculture. I assure honourable senators that the government is taking this matter very seriously.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have a supplementary question. I hesitate to ask a question on a topic with which I am not that familiar, but from what I have heard so far, a state of emergency exists among our farmers out west, if not elsewhere. I would like the minister this afternoon, when he is at that committee, to get a direct answer to Senator Spivak's question.

In order to resolve the crisis, are any other programs being developed to help the farmers? It is obvious from what we heard from Senators Spivak and Gustafson that the programs presently in place are not satisfactory. They call it a "crisis"; I call it an emergency. Farmers out west are at an income level that we have not seen for years.

This is not something cyclical. A pattern is developing and it seems to be going on longer than we would like. Will the minister please come back tomorrow and reassure us that the government is not only thinking of adding programs to help alleviate the crisis but will do something as soon as possible?

• (1410)

Senator Graham: As I indicated, I will bring that matter to the attention of Minister of Agriculture this afternoon. If there is anything further I can add to my previous comments — being mindful that the government is cognizant and very concerned about the problems — I shall be happy to do so.

Hon. A. Raynell Andreychuk: Honourable senators, I have a supplementary question.

Three senators have talked about this situation as an emergency. It is not cyclical, it is a crisis. The farmers are leaving and they will not come back. The families have been forced to move. The issue of new programs is critical today.

What are we doing on the international scene? The information coming from our newspapers and from the Department of External Affairs and International Trade, and elsewhere, is simply saying that we will not allow the Americans and the Europeans to control the WTO debates.

What new initiatives are we proposing within Canada that will be within the WTO rules? Europe has been very creative in setting up subsidies for its farmers on a three-year basis. Then they say they will reduce the subsidies and use code words, such as suggesting they will revisit it in three years. However, their

farmers are getting immediate help and it is within WTO guidelines, or at least within their tolerance level.

What are we doing creatively to support our farmers today, within the World Trade Organization, because that is ultimately where we must win in the long term? I do not see any creative thinking, any creative programs and I do not see any thrusts into the WTO. Are there any?

Senator Graham: Honourable senators, yes, the Minister of Agriculture and the Minister of Trade are monitoring the situation on a daily basis and, as I indicated earlier, under the Agricultural Income Disaster Assistance Program, \$1.5 billion has been made available. I recognize that this is a crisis situation and I will carry the message again to my colleagues in cabinet.

Hon. David Tkachuk: Honourable senators, I will not lay the blame on only world prices and commodity prices, I will lay part of the blame at the feet of the Liberal government, where it belongs.

Senator Whelan outlined the problems we are having with marketing boards and quotas, and the seeming inability of anyone to understand what the government is doing. In Saskatchewan, the situation is having a profound effect because it is not only hurting the farmers, it is hurting the whole economy. To give you an example, in the last 20 months, the workforce at Flexicoil, which is the largest farm manufacturing company in Saskatchewan, has been reduced by 1,000 people, over 50 per cent of its workforce. That company is presently in a summer shut-down, which is very unusual, and it means no one is working. That shut-down will last for four months. Large tractors sales in our province and on the Prairies generally are almost negligible; something which has been the mainstay of the farm implement dealers scattered throughout the Prairies.

It seems that the government is reacting to recommendations by the Senate Agriculture Committee. I wonder what the Department of Agriculture has been doing, what Reform in the other place has been doing, what the Liberal minister from Saskatchewan has been doing and what Mr. Vanclief has been doing. Are they waiting for us to tell them about problems, such as the drop in commodity prices, that have existed for quite some time?

The problem is that the government does not have an agricultural policy for Canada. You do not understand agriculture. I ask the leader today to ask the minister to lay down an agricultural policy for the country that makes some sense so that we will be able to anticipate these problems?

Senator Graham: Honourable senators, Senator Tkachuk's comments are too extravagant really to be responsible. I know the concerns. I feel the concerns here and elsewhere. The Minister of Agriculture talks about them on a regular basis. To say that the government does not have an agricultural program is incorrect.

I indicated earlier that, through the AIDA program, \$1.5 billion has been made available. That program was widely requested. I remember very well listening to senators in this chamber last December asking for emergency help. The government was listening and aid was provided. We obviously have a new crisis, and the government will address that crisis.

Senator Tkachuk: Honourable senators, I cannot imagine why the minister would say that my comments have been extravagant. They rarely are. If 1,000 people were laid off in Ontario rather than Saskatchewan, there would be hell to pay. I am being extravagant because it is important to the people of my province. It is no good talking about how great your economic policy is when farmers are leaving Saskatchewan to the tune of 15,000, as is anticipated this year; manufacturing companies are laying off people; implement dealers are going broke.

The government does not have a national agriculture policy. Senator Whelan knows that, Senator Gustafson knows that, the Liberal government knows that. I wish to know what that policy will be, and I ask that the leader request that the Minister of Agriculture put together an agricultural policy that makes sense to give us some hope that we will not be doing this again next year. However, I suspect that this is exactly what we will be doing, because the government does not know what is happening in the Prairies.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate.

The leader just stated a moment ago that we obviously have a crisis; therefore, we have the admission from the minister that this is a crisis. The question that I wish to raise is the following: Does the government representative in the Senate have any plans to involve the Senate of Canada in developing contemporary policies to respond to this agricultural crisis that he has admitted exists?

Senator Graham: Honourable senators, yes, we do. We have a vehicle called the Standing Senate Committee on Agricultural and Forestry of the Senate of Canada. As I indicated earlier, it has done excellent work in the past. I remember its work when Senator Sparrow was chair, when it produced that widely publicized report called "Soil at Risk." There have been great achievements by the Agriculture Committee over a number of years. The committee has gained national recognition and it is regarded as a very responsible committee. It has brought great credit to this chamber, and I believe we should use the Agriculture Committee to address what has been recognized as a crisis in our country.

Senator Kinsella: Honourable senators, has the honourable minister any specific ideas as to what kind of an order of reference the Senate might develop and convey to the Agriculture Committee in order to deal in a hands-on manner with this agricultural crisis that we now have all apprehended?

For example, does the minister think that the order of reference should include an examination and analysis of the farm

subsidies adopted in the European Community in relation to the policy on farm subsidies presently in place in Canada? Should the order of reference instruct the committee to consider whether or not, upon such an examination, Canada should undertake, as a matter of public policy, a zero tolerance approach so that Canadian farmers are not forced to operate as producers on an uneven playing field?

Senator Graham: Honourable senators, there are people in this chamber much more qualified than the Leader of the Government in the Senate to develop a term of reference for the Agriculture Committee. As a matter of fact, the Agriculture Committee is free to develop its own terms of reference and to discuss whatever it wishes during its meetings. Far be it from me, one who comes from the coalmining culture of Cape Breton, to suggest to the farmers of Saskatchewan, Manitoba, Prince Edward Island, or anywhere else, that I am an authority on agriculture and that, consequently, I should be the one to recommend a specific term of reference.

• (1420)

However, I do encourage the members of the Agriculture Committee and other honourable senators to bring forward suggestions for the committee to act upon.

Senator Kinsella: Honourable senators, surely the Leader of the Government recognizes that it is his responsibility, as it is the responsibility of his colleagues, to provide leadership.

We are calling for some leadership to show the way. I agree with the honourable minister that we have a tremendous body of human resources in this chamber that can delve into this subject. However, it is critical that the leadership come from the government.

Would the Leader of the Government be prepared to bring forward a position paper or some direction as to what the government sees as the priorities? One recognizes agriculture as a major part of our economy, and it needs to receive focus. The job of government is to provide focus in the development of policy.

Finally, this afternoon we heard an opening statement from Senator Whelan. My question is: Does the Leader of the Government agree with the position so clearly articulated by Senator Whelan?

Senator Graham: Honourable senators, I cannot recall many occasions when I have disagreed with Senator Whelan. I have known him for a long time, going back to when he was a back-bencher in the other place.

Again, it is open to any honourable senator to bring forward an inquiry or for the committee to bring forward a specific recommendation with respect to a term of reference. The word "crisis" was used in this chamber last November and December. The government responded with millions of dollars of aid to the western grain farmers and commodity producers.

Yes, the government is aware that the situation is very serious. While the government recognizes that it must provide leadership in this respect, at the same time, any honourable senator in this chamber is free to bring forward worthwhile suggestions, particularly on such a serious situation as the crisis that we are facing in various parts of the country.

Hon. John B. Stewart: Honourable senators I should like to ask a supplementary question.

Given the importance of the matter under discussion, would the Leader of the Government in the Senate agree that what is required is a study which focuses not on the immediate problem but on the impact of agriculture in Canada, of the Free Trade Agreement, the NAFTA and the establishment of the World Trade Organization and other such developments?

In other words, what is the future of Canadian agriculture in the world of increasing free trade globalization? Surely that is the question to which we ought to be addressing our attention.

Senator Graham: Honourable senators, there are two questions: first, the immediate crisis, which has been identified by several honourable senators opposite and by Senator Whelan in his earlier statement; second, and Senator Stewart has put his finger on it, the long-term problem, which I am sure has been considered by the Foreign Affairs Committee in its study on the impact of the European Union.

With regard to European subsidies, it may be that the Foreign Affairs Committee will make available the results of its examinations and studies to the Agriculture Committee. That information would bear directly on the question of whether it is free trade, the NAFTA, the World Trade Organization or European subsidies in the European Community. These considerations must be part of the overall examination.

In the meantime, we have a crisis which is immediate and that should be addressed as well.

Senator Gustafson: Honourable senators, I have a short supplementary question. It is clear that we must not only prepare for the long term, but we must have some immediate injection of cash as well.

The confusion that reigns within programs was obvious in the committee meeting, made clearer by Senator Sparrow's questioning. The farmers cannot wait for another year to find out whether the negative approach, the 75 per cent over the last three years, will work. It was suggested by Senator Sparrow and other members of the committee that possibly an acreage payment or some way of injecting cash to meet the expenses of spring seeding might alleviate the current crisis.

Would the Leader of the Government in the Senate convey to the cabinet that some emergency injection of funds is required

because there is a significant amount of confusion about the AIDA program?

Senator Graham: I shall seek further clarification from the Minister of Agriculture and from other cabinet colleagues. As I said earlier, I undertake to bring this matter immediately to the attention of the Minister of Agriculture.

CANADIAN HERITAGE

CANADA COUNCIL—FUNDING FOR FILM ENTITLED BUBBLES GALORE—RESPONSE OF MINISTER—REQUEST FOR CLARIFICATION

Hon. Marjory LeBreton: Honourable senators, yesterday in response to a question in the other place, which was reported in the media last night and again today, the Minister of Canadian Heritage, when questioned about the funding of the controversial film, *Bubbles Galore*, said the responsibility lay with Brian Mulroney.

Will the minister explain how the decision to fund this project, which was apparently made in the form of two separate grants in 1995 and 1996, can be laid in the lap of Brian Mulroney, who left office six years ago?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that question is obviously not as transparent as the film. I have not seen *Bubbles Galore*, nor do I expect to see it.

Senator LeBreton has raised a valid point. The Canada Council, like other agencies, is at arm's length from the government. Consequently, I do not know whether the blame for such a questionable investment of Canadian taxpayers' dollars ought to be placed at the door of any single individual.

Senator LeBreton: Will the minister then undertake to ask his colleague the Minister of Canadian Heritage who she had in mind as the person or persons responsible for these grants? Who are these agents of Brian Mulroney?

Is it not true that shortly after the election of the Liberal Party, in 1993, a new chair was appointed head of the Canada Council, in the person of Donna Scott, who was a Liberal candidate for the riding of Mississauga South in the 1990 Ontario provincial election, and is a long-time Liberal Party worker? Is it possible that she was taking orders from Brian Mulroney?

I think the only bubbles around here are in Minister Copps' head.

Senator Graham: Honourable senators, Donna Scott is an outstanding Canadian and has served the Canada Council very well. I shall be happy to bring the comments of Senator LeBreton to the attention of the Honourable Minister of Canadian Heritage.

[Translation]

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1999

SECOND READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Maheu, for the second reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

Hon. Roch Bolduc: Honourable senators, on March 16, I drew your attention to the problems of growth Canada has experienced in the past 20 years compared to our neighbours, and to the decreasing levels of productivity in Canada.

Today, I would like to discuss other aspects of the economic policy relating to Bill C-71 and Bill C-72.

[English]

Last year, the minister predicted that the debt would total \$583 billion at the end of April of this year. I told honourable senators at that time that I did not believe it. However, as much as the minister was off the mark for spending, he was off the mark in his estimates for the debt, because the debt is now a little less than he predicted. It now stands at about \$579 billion. However, I will not dwell on his error because it represents so much gain on the budgetary margin that we dispose of.

Honourable senators, the minister is patting himself on the back for the surplus, but we must remember that, including provincial debt, Canada's total public debt still stands at 90 per cent of Canada's gross national product, which puts us in fourth place among the most indebted industrialized countries. Unlike Japan, which is also heavily indebted, we do not have \$224 billion in international reserves.

[Translation]

I would at this point like to thank our leader, Senator Lynch-Staunton, for demystifying the growth of the debt over the past 20 years. For five years, we have heard the Liberals rewriting history and saying that we were really the ones at fault, when we know where the huge increase in spending under Mr. Trudeau put us, in 1984, with the cost of servicing the debt, which grew much faster than the economy. These people forget that for the past six years they have been in government, the debt has grown by \$100 billion, even with the increases in revenues of between \$35 billion and \$37 billion. They are returning to their old ways of spending excessively.

[English]

This year, the minister explained his dilemma to us: How should he use the budgetary surplus? Should he reduce the debt, cut taxes, or increase spending on health and research and development? After considering what he saw as the pros and cons of the situation, the minister concluded that it would be better to spend to relieve the so-called misery of the people. I regret his choices because he is depriving us of what is rightfully ours — our power to allocate this share of our resources as we see fit. In addition, Minister Martin is maintaining at 23 per cent — or something like \$115 billion — the share of our debt that is held abroad. This makes us more vulnerable to the kind of volatile international financial situation that we witnessed in 1998.

The minister also assumes that there is no danger of inflation, and that debt servicing costs will not rise. However, interest costs are a significant variable with a debt the size of Canada's, and even more so since it is largely made up of short-term loans.

Honourable senators, I recognize our variables are at play here, but is the minister aware that we might be at the end of an economic cycle and that revenues could very well experience a downturn? Then the government will say that we should have taken into account the relative prosperity in which we found ourselves when we allocated our resources, but it will be too late.

In 1976, the Canadian dollar was worth \$1.04 U.S. In 1988, it fell to 64 cents U.S. Now it is hovering around 68 cents U.S. The minister, with reason, explained that one of the causes of this decline was the slump in commodity prices. However, this 42 per cent decrease occurred over the last 18 years and not just in 1998.

Of course, the Canadian dollar declined a little more in 1997 and 1998. Other reasons must therefore be considered in addition to this cause identified by the minister — a monetary policy that kept short-term interest rates lower than the American rates for some months last year, and a fiscal policy that discourages investment. Out of a purchasing power value which would put the Canadian dollar at around 85 cents U.S., the drop in primary resource prices can explain a reduction of about 10 percentage points, but not 18 points. There are, therefore, other causes — the ones I just mentioned.

When it comes to monetary policy, some analysts have claimed that the relative decline of Canada compared to the United States in the 1990s was a legacy of the more rigorous policy implementation by Mr. Crowe. They neglect to mention the reasons why the Bank of Canada raised interest rates, which was that federal and provincial spending, over a decade or two, had led to huge deficits, and a debt whose servicing costs were sky-rocketing in a period when inflation was eroding purchasing power. It was therefore necessary to attract foreign investors to help us pay those costs. The American situation was quite different, with a dollar that is recognized and accepted around the world.

The result under Mr. Martin is different, but the government, instead of criticizing its predecessor, should thank the previous Conservative government for having wrestled inflation to the ground. After all, Mr. Martin's government is benefiting from that success today.

[*Translation*]

Honourable senators, I do not want to start a debate on this issue, but I would like to conclude by saying a few words about the concept of a single monetary policy for America. Some people dream about having a real dollar but, given the rigorous economic and budgetary policy that it implies, we would have to say goodbye to protectionist corporate acts, to our high public spending, to the Canadian government's paternalistic approach, and to our prohibitive tax burden.

Our collective mentality is so influenced by these elements that things are not going to change overnight. When the Governor of the Bank of Canada appeared before the Senate Standing Committee on Banking, Trade and Commerce, on April 20, he mentioned other reasons that seem valid to me.

I conclude my remarks on the monetary policy by pointing out that even though the Bank of Canada boss claims that "the fundamentals are good," I am convinced it would be more appropriate to say that "some fundamentals are good," but not all, as I indicated a few weeks ago when I dealt with the issue of productivity, and as I will now do regarding other components of the government's economic policy. This brings me to the fiscal policy, particularly taxation.

[*English*]

The Minister of Finance, in his dilemma about what to do with the budgetary surplus, has told us that he opted for a balanced approach: a bit of money to pay down debt, a bit of money to reduce the tax burden, and a bit of money for health and research and development. In fact, the minister chose additional spending of \$7 billion versus tax cuts of \$2.6 billion. This action is very typical of Liberal governments. When they have money, they spend it because Liberals think they know better than the people where to allocate tax dollars. Who could still believe that, after seeing the results last year of the Canada Pension Plan fiasco over the last 25 years?

Canadians were being made to pay two surtaxes on their income: a 5 per cent surtax and a 3 per cent surtax. However, only the 3 per cent surtax disappeared this year. By maintaining the 5 per cent surtax, the minister, without saying so, is accepting an additional progressivity in income taxation, without debate. This surtax was temporary, we were told, but it is still there, and taxes in Canada are still 20 to 25 per cent higher than in the United States.

The minister was off by \$6 billion in his revenue projection. That is a huge mistake. Money is coming in by the shovelful. Thirteen billion dollars more in taxes were collected in 1997-98 and the figure for 1998-99 will be just as high. Since 1993, the Liberals have collected \$36 billion more in taxes, a 34 per cent increase. People are wondering why the savings rate in Canada is so low. In fact, it is less than half the American rate, and that rate is already low. The answer is simple: Taxes are so high that after people have paid their taxes and their living expenses, they have nothing left.

From 1978 to 1995, the marginal rate of taxation for the average industrial worker rose by 20 per cent in Canada, compared to an average increase of 2.5 per cent for other industrialized countries, and I do not mention here the rate for management people.

I suggest that you take a look at comparative taxation statistics for Canada and the United States. You will see that there is a considerable difference between the two countries. In Canada, for example, with a disposable income of \$60,000 you pay the top tax rate, while in the United States you must earn above \$250,000 in order to hit the top rate. That is a huge difference. In Canada, personal taxes are equivalent to 13.5 per cent of GDP; in the United States, it is 10 per cent; in England, the figure is 9.6 per cent; in Germany, 9.4 per cent; and in Italy, 9.2 per cent. That, again, is an enormous difference.

With the 75 per cent hike in CPP premiums, which is paid in part by employers, and a capital gains tax of 40 per cent, versus 20 per cent in the United States, how can we expect to attract investors here? Capital is going elsewhere, just as our Canadian-trained professionals are doing. Yet we wonder why the Canadian dollar is worth just 67 cents U.S. Taxes must be cut to stop the brain drain, which costs around \$6 billion.

All governments in Canada grab about 46 per cent of the GNP. The World Economic Forum rates us forty-third on the list of countries for corporate taxes. We are among the worst. Canada's corporate tax is 9 per cent higher than the G-7 average. Ms Francis may not be the most popular journalist, but she makes sense when she points out that "Low tax countries mean low unemployment; high tax countries mean high unemployment."

• (1440)

The minister's fiscal manoeuvring is quite skilful: He has not modified the partial non-indexation of tax brackets and exemptions, with the result that every year a number of taxpayers see their taxes rise — which means that more of their money ends up in the minister's pocket. He is gouging an additional 2 per cent of their take-home pay each year, between \$1,000 and \$1,700. That explains why real disposable income is \$1,000 less than it was in 1990. Moreover, that hidden tax has a fiscally regressive impact.

Then, at the end of the year, he spots a new surplus in revenue and gets set to spend it. This year, he was more subtle. Having had his knuckles rapped by the Auditor General for putting money into foundations that do not yet exist, the minister was careful not to create any new agencies. Instead, he put more money into existing programs.

He is doing the Liberal two-step: tax silently and spend noisily, so that Canadians are stuck with big, unlimited government. He is stealing our freedom, never mind about the productivity declines, and all those lost jobs.

[Translation]

As regards equalization, the minister made a few adjustments to the formula. However, when I look at the minister's budget, I can only conclude that the equalization program is inadequate, since the government deemed necessary to get even more involved in social policy, on behalf of the provinces that are poor.

Yet, the purpose of the equalization program is to allow poor provinces to provide services that are deemed to be a priority, at a quality level that compares with that of the richer provinces.

Instead of getting involved through a series of new programs, such as in health this year, and setting its priorities and conditions in a system under which we already spend a lot more than other OECD countries in terms of the percentage of the GNP, with the exception of the United States, why did the government not try to make our taxation system more competitive vis-à-vis our main trading partner, the United States?

[English]

Honourable senators, there are several wide-ranging pieces of legislation that provide for statutory spending — and I am thinking here of old age pensions, social transfers, employment insurance and equalization payments — that are equivalent to more than 70 per cent of the budget. This is what I call the automatic pilot. In other words, the government does nothing for a few years and the expenditures grow rapidly. In the 1980s and 1990s, we saw how this part of the budget contributed to the deficit explosion.

Honourable senators, we are now also in automatic pilot mode when it comes to government revenue. I refer to the partial non-indexation of tax brackets and exemptions. The government need not intervene, and the money comes in faster than even the government projected that it would. They are playing hide-and-seek with taxpayers. How is that for frustrated cynicism?

Let us turn to the other side of the budget, namely, public expenditures. The government's budgetary policy is evident in its program spending. Last year, the minister projected program spending of \$104 billion. This year, he told us that the final tally for 1998 was \$112 billion — a significant 7.3 per cent more than he predicted in February 1998. He made the same error with his

projection regarding revenues, which were \$6 billion higher than he had previously predicted. Indeed, just one thing can be said regarding the government's decisions, and that is that it spends what it collects, even in good years, so that the state is still growing at a much higher rate than inflation, despite what the President of the Treasury Board says.

The minister is an old hand at undervaluing government revenues, which have risen by \$37 billion in five years. Then, at the end of the fiscal year, he spends the resulting surplus in areas of provincial jurisdiction, and conditionally at that. This is a return to the strong central governments of the war and post-war year period. However, it is not defence or international aid spending that is growing but, rather, spending fields constitutionally assigned to the provinces. In fact, the minister says it is necessary to target priorities, when in reality he is simply bending to pressure from interest groups over the heads of the provinces. One year it is research; another year it is education. This year it is health. Perhaps next year it will be child care.

In an interview which he recently gave to Hydro-Québec's *Force* magazine, I noted that the minister shared with the Quebec Finance Minister a deep belief that they knew better than the rest of us Canadians how to spend our money. This arrogant paternalism is also shared by Mr. Manley, with his subsidies to businesses which appear to him to be thriving. On the one hand, he says that we should lower taxes, while on the other hand he says we should spend money in industry. He, too, obviously thinks he knows better than investors in the race to innovation.

Honourable senators, when you are my age and have been interested in these issues for more than 40 years, statements like this seem laughable. However, their negative consequences are no laughing matter. It looks as though people have forgotten the asbestos adventure, along with many others.

As Mr. d'Aquino so wisely put it, this was a "Big-L budget." The government appears to think that increasing health spending from 9.1 per cent to 9.6 per cent of GDP will solve all our problems.

[Translation]

And yet, Senator Keon, a very respected authority in this field, has told us that the problem is not how much money is spent, but how that money is managed, and how the system is standardized so that everyone can operate effectively — not just for those using the services, but also for those providing them. This is important, and Senator Keon has put his finger on the fundamental problem.

The Hon. the Speaker: Honourable senators, I must interrupt Senator Bolduc and leave the chair so that the Senate can proceed to a recorded division on Bill C-40.

Debate suspended.

[English]

EXTRADITION BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the third reading of Bill C-40, respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence,

And on the motions in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C., that the Bill be not now read a third time but that it be amended:

1. in clause 44:

(a) by replacing lines 28 and 29 on page 17 with the following:

“circumstances;

(b) the conduct in respect of which the request for extradition is made is punishable by death under the laws that apply to the extradition partner; or

(c) the request for extradition is made for”; and

(b) by replacing lines 1 to 6 on page 18 with the following:

“(2) Notwithstanding paragraph (1)(b), the Minister may make a surrender order where the extradition partner requesting extradition provides assurances to the Minister that the death penalty will not be imposed, or, if imposed, will not be executed, and where the Minister is satisfied with those assurances.”.

2. in Clause 2 and new Part 3:

(a) by substituting the term “general extradition agreement” for “extradition agreement” wherever it appears;

(b) by substituting the term “specific extradition agreement” for “specific agreement” wherever it appears;

(c) in clause 2, on page 2

(i) by adding after line 5 the following:

““extradition” means the delivering up of a person to a state under either a general extradition agreement or a specific extradition agreement.”;

(ii) by deleting lines 6 to 10;

(iii) by replacing line 11 with the following:

““extradition partner” means a State”;

(iv) by adding after line 15 the following:

““general extradition agreement” means an agreement that is in force, to which Canada is a party and that contains a provision respecting the extradition of persons, other than a specific extradition agreement.

““general surrender agreement” means an agreement in force to which Canada is a party and that contains a provision respecting surrender to an international tribunal, other than a specific extradition agreement.”;

(v) by replacing lines 20 and 21 with the following:

““specific extradition agreement” means an agreement referred to in section 10 that is in force.

““specific surrender agreement” means an agreement referred to in section 10, as modified by section 77, that is in force.”;

(vi) by replacing lines 29 to 31 with the following:

“jurisdiction of a State other than Canada; or

(d) a territory.

““surrender partner” means an international tribunal whose name appears in the schedule.

““surrender to an international tribunal” means the delivering up of a person to an international tribunal whose name appears in the schedule.”

(d) on page 32, by adding after line 6 the following:

PART 3 SURRENDER TO AN INTERNATIONAL TRIBUNAL

77. Sections 4 to 43, 49 to 58 and 60 to 76 apply to this Part, with the exception of paragraph 12(a), subsection 15(2), paragraph 15(3)(c), subsections 29(5), 40(3), 40(4) and paragraph 54(b),

(a) as if the word “extradition” read “surrender to an international tribunal”;

- (b) as if the term "general extradition agreement" read "general surrender agreement";
- (c) as if the term "extradition partner" read "surrender partner";
- (d) as if the term "specific extradition agreement" read "specific surrender agreement";
- (e) as if the term "State or entity" read "international tribunal";
- (f) with the modifications provided for in sections 78 to 82; and
- (g) with such other modifications as the circumstances require.

78. For the purposes of this Part, section 9 is deemed to read:

"**9.** (1) The names of international tribunals that appear in the schedule are designated as surrender partners.

(2) The Minister of Foreign Affairs, with the agreement of the Minister, may, by order, add to or delete from the schedule the names of international tribunals."

79. For the purposes of this Part, subsection 15(1) is deemed to read:

"**15.** (1) The Minister may, after receiving a request for a surrender to an international tribunal, issue an authority to proceed that authorizes the Attorney General to seek, on behalf of the surrender partner, an order of a court for the committal of the person under section 29."

80. For the purposes of this Part, subsections 29(1) and (2) are deemed to read:

"**29.** (1) A judge shall order the committal of the person into custody to await surrender if

(a) in the case of a person sought for prosecution, the judge is satisfied that the person is the person sought by the surrender partner; and

(b) in the case of a person sought for the imposition or enforcement of a sentence, the judge is satisfied that the person is the person who was convicted.

(2) The order of committal must contain

- (a) the name of the person;
- (b) the place at which the person is to be held in custody; and
- (c) the name of the surrender partner."

81. For the purposes of this Part, the portion of paragraph 53(a) preceding subparagraph (i) is deemed to read:

"(a) allow the appeal, if it is of the opinion"

82. For the purposes of this Part, paragraph 58(b) is deemed to read:

"(b) describe the offence in respect of which the surrender is requested;" and

(e) by renumbering Part 3 as Part V and sections 77 to 130 as sections 83 to 136; and

(f) by renumbering all cross-references accordingly."

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare, that the bill be not now read the third time, but that it be referred back to the Standing Senate Committee on Legal and Constitutional Affairs, together with the proposed amendments, for further consideration.

The Hon. the Speaker: Call in the senators.

• (1500)

The Hon. the Speaker: The question now before the Senate is the motion by the Honourable Senator Bryden, seconded by the Honourable Senator Pearson that Bill C-40 be now read the third time, and the motion in amendment by the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, that —

Hon. Sharon Carstairs (Deputy Leader of the Government): Dispense!

The Hon. the Speaker: And further, the motion in further amendment by the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare, that the bill be not now read the third time but that it be referred back to the Standing Senate Committee on Legal and Constitutional Affairs, together with the proposed amendments for further consideration.

The vote is thus on the second motion in amendment by Senator Kinsella to refer the bill back to committee.

Motion in amendment of Senator Kinsella negated on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Kelly
Balfour	Keon
Beaudoin	Kinsella
Berntson	Lavoie-Roux
Bolduc	LeBreton
Buchanan	Lynch-Staunton
Cochrane	Murray
Cogger	Nolin
Comeau	Oliver
DeWare	Pitfield
Di Nino	Prud'homme
Doody	Rivest
Eyton	Roberge
Forrestall	Rossiter
Ghitter	Simard
Grimard	Spivak
Gustafson	
Johnson	Tkachuk —37

NAYS
THE HONOURABLE SENATORS

Adams	Losier-Cool
Austin	Maheu
Bryden	Mahovlich
Butts	Maloney
Callbeck	Mercier
Carstairs	Milne
Chalifoux	Moore
Cook	Pearson
Corbin	Perrault
De Bané	Poulin
Fairbairn	Poy
Ferretti Barth	Robichaud <i>(L'Acadie-Acadia)</i>
Fraser	Robichaud <i>(Saint-Louis-de-Kent)</i>
Gill	Rompkey
Grafstein	Ruck
Graham	Sparrow
Hays	Stewart
Hervieux-Payette	Stollery
Johnstone	Taylor
Joyal	Watt
Kenny	Whelan
Kolber	
Kroft	
Lawson	
Lewis	Wilson —47

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, we are now back to the first motions in amendment. I have had a request from the deputy leaders on both sides that, instead of proceeding with the motions in amendment as one, they be separated. If you will refer to your Order Paper, under the printing you will see at page 3 a large number one under the motion in amendment; and at page four, a large number two. They will be split in that way.

The question of separating votes is an acceptable one. I refer to a ruling by the Honourable Allan McNaughton, Speaker of the House of Commons, who was also a member of this house. In that ruling, he went through an extensive study and stated that:

It would appear from the foregoing that, in accordance with the recent practice of the British House that, since 1888, the decision of whether a question is to be divided rests with the Speaker.

I will not read all the ruling, but on July 15, 1920, he refers to one where the Speaker said:

At the request of a member who asked for a ruling with regard to a motion in the name of the leader of the House which he contended consisted of two questions, the Speaker is reported as saying "If it will suit the honourable and gallant gentleman, I will put the question in two parts. At the request from the honourable and gallant lady and gentlemen, I will split it in two parts."

The first vote, therefore, will be on motion in amendment number one:

It was moved in amendment by the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal that the bill be not now read a third time but that it be amended:

1. In clause 44: —

Senator Carstairs: Dispense!

The Hon. the Speaker: Is there any desire on the part of any honourable senator to speak on debate on that first amendment? If not, is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those honourable senators in favour of motion in amendment number one please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to amendment number one please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

• (1510)

The Hon. the Speaker: Call in the senators. The whips have agreed to proceed with the vote now.

Motion in amendment number one of Senator Grafstein negated on the following division:

YEAS
THE HONOURABLE SENATORS

Grafstein	Prud'homme
Joyal	Rivest
Kinsella	Wilson—7
Pitfield	

NAYS
THE HONOURABLE SENATORS

Adams	Kolber
Andreychuk	Kroft
Atkins	Lavoie-Roux
Austin	Lawson
Balfour	LeBreton
Beaudoin	Lewis
Bolduc	Losier-Cool
Bryden	Lynch-Staunton
Buchanan	Maheu
Butts	Mahovlich
Callbeck	Maloney
Carstairs	Mercier
Chalifoux	Milne
Cochrane	Moore
Cogger	Murray
Comeau	Nolin
Cook	Oliver
Corbin	Pearson
De Bané	Perrault
DeWare	Poulin
Di Nino	Poy
Doody	Roberge
Fairbairn	Robichaud
Ferretti Barth	(<i>L'Acadie-Acadia</i>)
Forrestall	Robichaud
Fraser	(<i>Saint-Louis-de-Kent</i>)
Ghitter	Rompkey
Gill	Rossiter
Graham	Ruck
Grimard	St. Germain
Gustafson	Simard
Hays	Sparrow
Hervieux-Payette	Spivak
Johnson	Stewart
Johnstone	Stollery
Kelleher	Taylor
Kelly	Tkachuk
Kenny	Watt—75
Keon	

ABSTENTIONS
THE HONOURABLE SENATORS

Eyton	
Whelan—2	

The Hon. the Speaker: The question now before the Senate is the second amendment labelled number two at page four in the Order Paper.

Does any other honourable senator wish to debate this motion? If not, I will proceed with the question.

Will those honourable senators in favour of amendment number two please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to amendment number two please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators. The whips have agreed to proceed with the vote now.

Motion in amendment number two of Senator Grafstein negated on the following division:

NAYS
THE HONOURABLE SENATORS

Adams	Kolber
Andreychuk	Kroft
Atkins	Lavoie-Roux
Austin	Lawson
Balfour	LeBreton
Beaudoin	Lewis
Bolduc	Losier-Cool
Bryden	Maheu
Buchanan	Mahovlich
Butts	Maloney
Callbeck	Mercier
Carstairs	Milne
Chalifoux	Moore
Cochrane	Murray
Cogger	Nolin
Comeau	Oliver
Cook	Pearson
Corbin	Perrault
De Bané	Poulin
DeWare	Poy
Doody	Roberge
Fairbairn	Robichaud
Ferretti Barth	(L'Acadie-Acadia)
Forrestall	Robichaud
Fraser	(Saint-Louis-de-Kent).
Gill	Rompkey
Graham	Rossiter
Grimard	Ruck
Hays	St. Germain
Hervieux-Payette	Simard
Johnson	Sparrow
Johnstone	Spivak
Kelleher	Stewart
Kelly	Stollery
Kenny	Taylor
Keon	Tkachuk
Kinsella	Watt—72

YEAS
THE HONOURABLE SENATORS

Di Nino	Pitfield
Ghitter	Prud'homme
Grafstein	Rivest
Joyal	Wilson—9
Lynch-Staunton	

ABSTENTIONS
THE HONOURABLE SENATORS

Eyton
Gustafson
Whelan—3

The Hon. the Speaker: Honourable senators, we are now back to the main motion. It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Pearson that Bill C-40 be now read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Serge Joyal: Honourable senators, according to my deep convictions, the sanctity of life is a fundamental principle. We must always do our utmost to defend life and to have it respected in any and all circumstances.

There are four reasons why I will not vote for Bill C-40 at third reading. I have come to that conclusion after careful thought and extensive reflection. The four reasons why I cannot support Bill C-40 all relate to clause 44(2) of the bill. The first reason is that clause 44(2) is equivalent to an indirect endorsement of the death penalty. Clause 44(2) of Bill C-40, in my opinion, raises the issue of capital punishment.

The unamended clause 44(2) of the bill clearly refers to:

...conduct...punishable by death under the laws that apply to the extradition partner.

Those words are not mine. They are printed in the bill. In my mind, since we are addressing, though indirectly, the death penalty, this vote in the Senate should be free as a matter of principle and conscience as tradition and precedent show well. I intend to avail myself of that right to express myself freely on that issue. Some can argue that they are not voting on capital punishment as such but only on an extradition system that could lead to capital punishment. However, at the end of the day, the result is the same.

Canadian society's rejection of the death penalty is a well-established principle consummated in June 1998 in its complete elimination from the National Defence Act. Canada is already firmly committed to the abolition of the death penalty for even the most abominable crimes. In my opinion, Canada has to be firmly committed to working internationally to persuade other countries to avoid imposing the death penalty. Canada must also be committed to working to prevent the execution of children and pregnant women in countries where the death penalty is allowed. Let me remind you that 24 American states allow the execution of children under 18 and that 10 American states allow the execution of pregnant women.

• (1520)

Canada has a moral obligation under international law. Under the International Covenant on Civil and Political Rights, Canada has obliged itself to preserve life. Having abolished the death penalty 23 years ago, Canada has an obligation not to reinstate it, even indirectly. According to opinion expressed by prominent members of the United Nations Human Rights Committee, clause 44(2) is the equivalent to such a reinstatement, and I share that opinion.

The second reason is that clause 44(2) undermines our obligation under international law to promote and advance the abolition of capital punishment wherever we have the legal or political opportunity to do so.

Some senators have mentioned that Canada participated in Geneva last month in the drafting of a resolution calling for a global ban on the death penalty. At meetings of the United Nations Human Rights Commission, Canada voted to retain operative paragraph 5 of the resolution, which calls upon states to reserve the right to request assurances before granting extradition where the death penalty may apply.

That resolution does not weaken Canada's legal obligation under the International Covenant on Civil and Political Rights. On the contrary, because of the right to life guaranteed under the covenant, Canada, which has abolished the death penalty, has a moral obligation to prevent its execution whenever it has an opportunity to do so.

Some would have us believe that our international obligation not to allow a reinstatement or execution of the death penalty is somehow decreased by paragraph 5 of the resolution. Honourable senators, paragraph 5 is not a loophole; it is a reinforcement of the principle. The presence of paragraph 5 confirms that the international community expects that Canada, a country that abolished for itself the death penalty 23 years ago, shall request such assurances whenever the opportunity arises.

The third reason is that clause 44(2) weakens our capacity to pressure the U.S. to guarantee life imprisonment without parole instead of state-sanctioned execution.

Some say the Minister of Justice needs discretion; otherwise, he or she will have no leverage to compel the United States to forgo the death penalty. I agree that leverage is needed, and it is my belief that the leverage was provided in Senator Grafstein's amendment.

If the minister has no discretion, the Americans will know that whatever political pressure they exert, there will be no extradition without assurances that the death penalty will not be carried out. If the minister's discretion were circumscribed, it would have given the minister the leverage that some senators have called for.

That is how France and other European countries are able to obtain the commitment from American authorities that the death penalty, if pronounced, will be commuted to life imprisonment without parole. The precedents leave no doubt.

Senator Grafstein mentioned last week the case involving the extradition of Ira Einhorn from France to Pennsylvania. This case demonstrates that American authorities will comply with any reasonable condition to secure an extradition that will bring the accused or fugitive to justice.

Honourable senators, I draw your attention to a letter which demonstrates the resolve of 44 American attorneys general representing 44 jurisdictions, 30 of which carry out the death penalty. This is a copy of a letter addressed to the Secretary of State, Madeleine Albright, a key member of President Clinton's cabinet, dated March 11, 1998, little more than one year ago. The letter is under the letterhead of the National Association of Attorneys General and is signed by 44 American attorneys general. In that letter, the 44 American attorneys general note that Pennsylvania amended its state penal code to satisfy France's concern. In the words of the attorneys general:

We respectfully ask that you do everything in your power as the Secretary of State to work with the French Government and see that this convicted killer is promptly brought back to the United States.

Honourable senators, how can I express it more conclusively? These 44 signatures on that letter represent the prosecuting authorities in 44 American jurisdictions. Texas, Virginia, and Florida respectively are the top three states which carry out the death penalty the most frequently. The attorneys general of those top three death penalty states have all signed the letter. All three, like the great majority of American attorneys general, are officials directly elected by their respective states' population. Even so, they signed the letter pressuring Ms Albright to accept the sentence of life imprisonment without parole as a compromise in order to secure the return of a fugitive.

Many senators have raised the spectre of a Canadian minister of justice being forced to let a known serial killer go free because the requesting state refuses to give assurances that the death penalty will not be carried out. That apprehended scenario has no basis in precedent, and the letter of the 44 American attorneys general proves it eloquently.

No state authority would fail to do "everything within their power," even petitioning the Secretary of State of the United States of America, to secure the extradition of a fugitive or alleged criminal, whatever conditions Canada might impose, because fundamental justice demands that murderers be brought to trial, even if the prosecuting authority must accept a maximum sentence of life imprisonment without parole.

The fourth reason why I will not vote for Bill C-40 is the argument that the imagined invasion of Canada by American criminals is an attempt to frighten people into accepting the bill without amendments.

It is argued that the Minister of Justice needs discretion in order to prevent such an invasion by criminals. Let me quote a letter dated April 22, 1999, less than a month ago, from Mr. David Matas, Legal Adviser of Amnesty International Canada. Mr. Matas outlines four arguments which refute the argument that ministerial discretion is needed to prevent an invasion of fugitives. I quote:

... **first**, fugitives flee to escape arrest, not to get a mitigation in sentence. **Second**, if indeed escaping the death penalty were the sole motive for flight, Canada would still be an

attraction today, even with its current position that it will request assurances against the death penalty in appropriate cases... **Third**, the number of death penalty fugitives from the US in Canada over the years has been tiny. **Fourth**, there is no case on record of the U.S. ever refusing a request for assurances once made.

A Canadian court has recognized that those four arguments are valid. The alleged invasion by criminals has been harshly criticized by Mr. Justice Donald of the B.C. Court of Appeal in the *Burns and Rafay* case which involves two 18-year-old Canadian citizens. At paragraph 43 of his ruling, Mr. Justice Donald wrote as follows:

...Each

case

deserves to be considered on its own merits without being fettered by rules designed to deal with an imagined case load.

Mr. Justice Donald went on to say:

The Minister appears to be stating policies to hold back an imagined parade of fugitive murderers to Canada. In doing so he set too high a test...

Honourable senators, the "imagined parade of fugitive murderers" is no justification for leaving the minister's discretion totally unrestricted.

Honourable senators, there are other compelling concerns about the bill. One major objection arises from a serious matter raised in the *Burns and Rafay* case. The Chief Justice of that court said that there is confusion of the prosecuting function and the judicial function in the hands of the same person, the Minister of Justice, without any specific criteria for the exercise of the latter function. Such a situation deprives the accused or even the convicted person of due process to which he or she is entitled. This is, to me, contrary to the protection of rights that any person should enjoy under our system of law.

I also have serious concerns about the power the minister will have even to extradite persons under 18 years old who are Canadian citizens. Let me remind you that the United States has executed 13 children since 1978 and that there are currently 74 more juvenile offenders on death row awaiting executions in the United States.

• (1530)

Honourable senators, once the various stages of the legal process have been exhausted, at the end of the day it is still possible that an innocent person could be extradited and put to death. Miscarriage of justice can happen. We know examples in Canada: David Milgaard, Donald Marshall and Guy Paul Morin. All three were convicted of murder and spent considerable time serving the maximum sentence under Canadian law before they were ultimately proven innocent.

Marquis de La Fayette, hero of the American Revolution, declared 200 years ago:

I shall ask for the abolition of the punishment of death until I have the infallibility of human judgment demonstrated to me.

An aboriginal Canadian citizen, Mr. Leonard Pelletier, was extradited by Canada to the United States where he spent more than 20 years in prison. Now, serious questions have arisen about his guilt. In fact, former solicitor general Warren Allmand is investigating that case to see whether the Canadian extradition process resulted in a miscarriage of justice.

We know that the United States has executed at least 70 alleged criminals whose guilt was in serious doubt or who were put to death only to have their innocence conclusively established afterwards. In a Texas case, death row inmate Leonel Herrera found proof of his innocence years after his trial. The Supreme Court of the United States of America, in a six-to-three split, decided that its role is to "ensure individuals are not imprisoned in violation of the Constitution, not to correct errors of fact." In other words, the innocence of Mr. Herrera was irrelevant so long as the trial judge made no procedural errors. Since the new evidence came to light long after the 60-day notice period, and since Texas would not grant a clemency hearing, Mr. Herrera was executed six years ago today, even though authorities knew he was probably innocent.

Plainly, we cannot rely on the Supreme Court of the United States of America to intervene to prevent the execution of an innocent person. All three dissenting justices of the court said, in the same case:

The execution of a person that can show he is innocent comes perilously close to simple murder.

I would like to conclude by quoting Prime Minister Trudeau when he addressed the House of Commons during the capital punishment debate in 1976. He said:

To make it quite clear, if this bill is defeated, some people will certainly hang. While members are free to vote as they wish, those who vote against the bill, for whatever reason, cannot escape their personal share of responsibility for the hangings which will take place if the bill is defeated.

Honourable senators, when I exercise my right as a senator to vote freely on this bill, I will do so by favouring the sanctity of life over the possibility that I will give my consent, even indirectly, to having convicted persons, or even one innocent person, put to death.

The Hon. the Speaker: If no other honourable senator wishes to speak, we shall proceed to the vote.

It was moved by the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Hon. Marcel Prud'homme: On division.

The Hon. the Speaker: Will those in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

Senator Prud'homme: On division.

The Hon. the Speaker: On division.

And two honourable senators having risen.

The Hon. the Speaker: Honourable senators, it is too late for a standing vote now. I called for the "yeas" and "nays" and I heard "On division."

Hon. Jerahmiel S. Grafstein: Honourable senators, I ask that the leadership reconsider its position. I believe it is very important that all senators have the right to demonstrate their vote on this matter.

The Hon. the Speaker: Honourable senators, is it your wish to have a standing vote?

Senator Prud'homme: Your Honour, you asked, "On division?" and we answered, "On division." I do not think any further comments would be appropriate.

The Hon. the Speaker: I suggest we proceed with a standing vote, there being no difficulty.

Will the whips advise me on how long the bells will ring?

Senator Prud'homme: Your Honour, you have said, "On division."

The Hon. the Speaker: I am sorry. There can be no debate.

Senator Prud'homme: Honourable senators, I rise on a point of order. It had already passed.

[Translation]

The Hon. the Speaker: Honourable senators, I am sorry, but I cannot allow a debate at this time. A request has been made for a vote and we will proceed to a vote now.

[English]

The Hon. the Speaker: Will the vote be now?

Hon. Mabel M. DeWare: The bells will ring for five minutes.

The Hon. the Speaker: The vote will take place at 20 minutes to four o'clock. Call in the senators.

• (1540)

The Hon. the Speaker: Honourable senators, the question before the Senate is the motion by the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, that this bill be read the third time.

Motion agreed to and bill read third time and passed, on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Kolber
Atkins	Kroft
Austin	Lavoie-Roux
Balfour	Lawson
Beaudoin	LeBreton
Bolduc	Lewis
Bryden	Losier-Cool
Buchanan	Lynch-Staunton
Butts	Maheu
Callbeck	Mahovlich
Carstairs	Maloney
Chalifoux	Mercier
Comeau	Milne
Cook	Moore
Corbin	Murray
De Bané	Nolin
DeWare	Pearson
Di Nino	Perrault
Doody	Poulin
Fairbairn	Roberge
Ferretti Barth	Robichaud <i>(L'Acadie-Acadia)</i>
Forrestall	Robichaud <i>(Saint-Louis-de-Kent)</i>
Fraser	Rompkey
Ghitter	Rossiter
Gill	Ruck
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Grimard	Spivak
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Joyal	Rivest
Kinsella	Wilson—8

ABSTENTIONS
THE HONOURABLE SENATORS

Pitfield
Whelan—2

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before we return to the Orders of the Day, there is agreement on both sides that committees which had planned to sit at this time have permission to sit while we continue the sitting of the Senate.

The Hon. the Speaker: Is it agreed, honourable senators, that committees be allowed to sit during the Senate session?

Hon. Senators: Agreed.

Motion agreed to.

BUDGET IMPLEMENTATION BILL, 1999

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Maheu, for the second reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

The Hon. the Speaker: Honourable senators, debate was suspended for the deferred vote while Senator Bolduc was speaking. I ask for order, please, so that Senator Bolduc can continue with his comments.

Hon. Roch Bolduc: Thank you, honourable senators.

Honourable senators, the government appears to think that increasing health spending from 9.1 per cent to 9.6 per cent of GDP will solve all of our problems. The government seems to think that the current system is some sacred cow, and when the system gets broken, they think they can fix it with more money.

[Translation]

As I said, Senator Keon, who is an authority, has said that that is not necessarily the problem.

[English]

I tend to agree with him.

Nobody dares say publicly that the system needs to be overhauled. It is clear that it will reach a crisis point within five years because simply tinkering with service delivery will not solve the problem. It is part of it, but it is not the whole problem. We must look at some demand-side measures also.

With an ageing population and the development of increasingly costly technologies, it is certain that some private capital will be necessary sooner or later. The built-in operating cost of the system increases by \$3 billion a year, even without the impact of the trends I have just mentioned — that is to say, ageing population and costlier technologies.

As for the surplus, to resolve the problem, the government is going back to conditional grants, last year in education and this year in health, as though people in Ottawa know any better than people in Toronto or Vancouver. Is the government in charge here, or is it being influenced unduly by a powerful bureaucracy?

Social policy, which accounted for 15 per cent of GDP in the 1960s, now accounts for 21 per cent. That is \$179 billion, including \$45 billion for education, \$49 billion for health, and \$85 billion for social security. As the population ages, we are also seeing the breakdown of families, and 25 per cent of our high school students do not graduate. Will it be necessary to devote more of our GDP to health, education and welfare policies?

Honourable senators, Canada already spends more money on education — 7.2 per cent of GDP — than any other OECD country, except Norway, Sweden and Finland. Yet, we are getting only average results. Those results are lower than four or five countries, including Germany, Norway and the United States. For example, our college graduation rate is 17 per cent compared to 25 per cent in the United States. More of our students choose the humanities than in other countries, and fewer opt for math and the sciences. They should know that salaries are 30 per cent lower in those occupations, although the economy of the future should absorb some of the surplus of qualified personnel. Already, many young dropouts cannot find work. The 61 per cent participation rate is not very encouraging.

A growing number of low-income people are deriving an increasing portion of their incomes from government welfare — 67 per cent at the present time. I reiterate to the government some advice which it has received publicly in recent months: Government programs which do not contribute to economic growth should be eliminated.

[Translation]

The government often cites the UN report ranking us as the best country in which to live, but our unemployment problems, which lead to poverty, and often violence and substance abuse, remain and call out for a solution. Asking lobbies to work

together is not the answer. There have to be incentives, starting with tax reform.

[English]

Honourable senators, I would not want to end this part of my speech without recalling to you the pearls of wisdom imparted by Mr. Martin in February. He told us that we were leaving behind us the era of governments that promised things that they could not do and that did what they could not afford. That must not sound too good for Mr. MacEachen and Mr. Lalonde.

• (1550)

I should now like to say a few words about administrative policy and its application by the government. It is appropriate to examine briefly the way the government manages our affairs. In effect, if public spending is increased, it is because there is an assumption that some current programs are being properly administered, that there is no leakage or waste, and that they are inadequate to meet legitimate demands.

Mr. Massé seems satisfied with the size of the government, and he told us that recently. However, I have noticed that the government is increasing in size. Who is telling the truth: Mr. Martin or Mr. Massé? Is the government, for example, satisfied with the current level of efficiency in tax collection? It appears not to be; otherwise, why would it propose taking tax collection away from the Department of Revenue and creating a special new agency to handle it? The three employee associations have told us that there are major unresolved management problems in this department, which employs 20 per cent of the federal public servants, or 40,000 people. That is not counting uncollected taxes from the underground economy, which is estimated at between 5 per cent and 15 per cent of the national economy or between \$40 billion and \$120 billion. At a rate of 10 per cent, that means a revenue loss of between \$4 billion and \$12 billion. Instead of trying to collect taxes for the provinces, the minister would be better off looking after the black market.

When it comes to expenditure management, the Auditor General noted in his 1998 report that grants paid out by the Department of Industry and by the Canadian Heritage department are not managed as they should be. That is an expert talking. It is our expert. Those two departments administer millions of dollars worth of grants. The Auditor General also told us this year that half of the contracts awarded to consultants and others are awarded without tender — that is, \$1.5 billion in contracts are awarded without tender, without competition. In the past, this kind of action was enough to topple a government in disgrace. Imagine if this lack of accountability extended to emergency measures such as supplements for fishermen and farmers in difficulty?

A third example is international aid, which totals some \$2 billion a year. It includes a multitude of programs whose impact on the economy of recipient countries is not measured at all. Yet a recent study shows that there is no correlation between international aid and improvement in the standard of living in those countries. This is a serious finding.

Another example is that each day our offices are inundated with information booklets from government departments about countless new programs. It is disturbing that the government has more than enough imagination to continually invent new initiatives yet has none at all when it comes to measuring results against the targets set out in those fine documents.

It seems to me, honourable senators, that what is lacking here is common sense — or, perhaps, as a mere senator I am overwhelmed by the political administrative activism. One thing is certain: I am not like the government. I live within my means. When you have a debt of \$580 billion, you should be more frugal.

[*Translation*]

We were given a fine example recently of this very typical lack of care in the management of public funds. For a whole generation, people who had barely contributed were given pensions, drawn on the contributions of the youngest, and today they realize that that is not enough and so they raise contributions by almost 75 per cent, again on the backs of the young, creating an imbalance between generations instead of in fact reinforcing the social fabric.

How is it that the Liberal government, which has been there for over 20 of the past 30 years, did not analyze the demographics and the money paid out and react accordingly, but in time and not at the last minute?

There is not one insurance company that behaves or could behave this way. The government would say it was not playing by the rules. However, this is what it does both coming and going. The same is true in the case of advertising information: Businesses cannot, on pain of imprisonment, sacrifice the truth in selling their products. Ministers, in an election campaign, sell with taxpayers' money one thing during the election campaign and another afterward. If consumer protection legislation applied to the political process, people would be going to prison for sure. And then they complain about the public's cynical view of politicians.

As regards the management of the public service, the government is so dissatisfied with the rules of Treasury Board that it is continually creating special agencies so public servants can be transferred there and escape coverage by these rules. Instead of fixing the rules, they build other structures on the Swedish model: They are neither government departments nor private enterprise, but some ambiguous thing between the two.

Mel Capp has just been appointed Secretary-General of the Government. My congratulations to the new Clerk of the Privy Council, and I would like to encourage him to follow the initiative of Ms Bourgon as far as involving senior executives in the development of public policies is concerned, taking inspiration from the principles set out recently by the Auditor General for improving the efficiency of the government. This is good for their morale, but he also ought to make a particular effort to lighten the burden of taxpayers and corporations as far as the multitude of governmental constraints on them is concerned.

In closing, I would like to remind the government of the basic premise behind a healthy and liberal society: Individuals may do everything except that which is forbidden by law, and governments can do nothing except that which is permitted by law.

For the past thirty years, efforts have been made to turn that completely upside down by allowing the government to do everything, thus unduly restricting individual and corporate freedom. It seems to me, honourable senators, that it is time that the Government of Canada returned to the basic premise on which Western democracies have built the greatest accomplishments of our modern civilization.

[*English*]

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Moore, bill referred to the Standing Senate Committee on National Finance.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(*Honourable Senator Carstairs*)

Hon. Wilbert J. Keon: Honourable senators, I should like to speak briefly in support of Bill S-29. I begin by commending Senator Lavoie-Roux for raising the awareness of this highly sensitive issue. As I have stated before in this chamber, there is a need for Parliament to clarify the circumstances regarding the issue of withholding and withdrawal of life-sustaining treatment as outlined in the Criminal Code. This is not about resolving issues related to euthanasia and assisted suicide.

Since 1992, the Canadian Medical Association has advocated clarification in the Criminal Code of the legality of cessation of treatment.

As you all know, the Senate special committee released on this subject the country's most comprehensive report on euthanasia and assisted suicide in June of 1995. Their report, "Of Life and Death," was released following 15 months of hearing testimony from patients, health care administrators, practitioners, legal experts and concerned individuals. Although the committee failed to reach a consensus on all the issues, there was no doubt that the committee's final report is considered by many as a milestone in the debate on this issue.

The recommendations outlined in the report led to Senator Carstairs introducing Bill S-13, in 1996, which proposed that a new section be added to the Criminal Code. The proposed clause provided that no health care provider is guilty of an offence under the code by reason only that they withhold or withdraw life sustaining medical treatment from a competent person who requests the treatment be withheld or withdrawn. It is set out that no health care provider is guilty of an offence under the code by the sole reason that the health care provider administers medication with the intention of alleviating and removing the physical pain of a person.

Bill S-29 seeks to address the same issue. It is, in many respects, about clarifying and improving the practice of palliative care across this country.

• (1600)

Honourable senators, today there continues to be widespread confusion among health care providers and patients regarding the appropriate circumstances, procedures and practices under which life-sustaining treatment and protocols for management of pain are administered. Because the law is unclear, health care practitioners may administer inadequate amounts of medication for relief of pain out of fear of criminal charges or because of lack of proper training and knowledge regarding appropriate palliative treatment. During the deliberations of the Senate committee, it became clear that good, recognized palliative care could help manage a patient's pain in about 95 per cent of cases.

As Senator Lavoie-Roux pointed out in tabling the proposed legislation, this bill is comprised of two new elements which build on recommendations made by the special Senate committee. The first is that guidelines for medical procedures and practices used to withhold or withdraw treatment following a patient's consent be established by the federal Department of Health within one year following enactment of the bill. This creation of standards and guidelines would be done in consultation and cooperation with provincial governments as well as national organizations and associations of health care professionals. Honourable senators, I believe that the establishment of such standards is critical. Advances in science and medicine have been dramatic in the last 10 years. These practices were not contemplated when the original code was drafted.

The second distinctive provision of Bill S-29 calls for the requirement of health care providers to obtain free and informed consent from the person or the substitute decision-maker concerning pain control and medication. Our country upholds the rights and freedoms of the individual, and this is just as true in the physician-patient relationship. Our society values individual liberties and individual's rights of self-determination. We insist on the right of the individual to select the medical procedure most appropriate in particular personal circumstances, or the right to refuse or discontinue treatment altogether. Taking into account an individual's choice to control the process of their treatment is but one way of easing those final days and hours, as well as preventing further complications.

In conclusion, I support this bill because I believe it represents support for a progressive, necessary response to research and recommendation that have culminated over the last 20 years. In 1983, the Law Reform Commission of Canada recommended that a statement be added to the Criminal Code that would make it clear that a patient has the right to reject treatment and require that it cease, and that the Criminal Code provision should not require a physician to violate this right. The proposed amendment of section 45 supports these recommendations.

Honourable senators, we should not miss the opportunity to clarify this issue. So long as the law remains outdated and ambiguous, the quality of life for Canadians will be jeopardized, as well as the careers of physicians and other health care providers.

The Canadian Medical Association has continuously advocated clarification of the law to protect health care providers from liability in the case that they withhold or withdraw medical treatment. In a recent policy statement aimed at addressing physicians' concerns about this issue, it stated:

Adequate palliative-care services must be made available to all Canadians. The 1994 CMA General Council unanimously approved a motion that Canadian physicians should uphold the principles of palliative care. The public has clearly demonstrated its concern with our care of the dying. The provision of palliative care for all who are in need is a mandatory precondition to the contemplation of permissive legislative change. Euthanasia and assisted suicide should never be chosen by patients because of concerns about the availability of palliative care. Efforts to broaden the availability of palliative care in Canada should be intensified.

Honourable senators, I believe that the bill before us attempts to address this very issue. The opportunity is once again before us to make true some of the recommendations of the excellent report which summarized the work and hearings of the Senate Special Committee on Euthanasia in 1995, as well as to answer to the deep and legitimate concerns of patients, health care providers, families and legal professionals.

On motion of Senator Carstairs, debate adjourned.

ROYAL ASSENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Second Bolduc, for the second reading of Bill S-26, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(Honourable Senator Grafstein)

Hon. Jerahmiel S. Grafstein: Honourable senators, once again the Leader of the Opposition in the Senate has diligently introduced a bill, this time Bill S-26, with the object of improving the effectiveness of the Senate, all in the name of efficiency, by reducing the symbolic and constitutional visits to the Senate to publicly grant Royal Assent to bills passed by both Houses of Parliament, culminating in the presence of the Governor General or a surrogate, and witnessed by a quorum of members from the other place, led by their Speaker.

Rather than enhance the public presence of the Senate and the historic and constitutional acts of the Governor General, Bill S-26 would severely curtail them, abrogating them for most intents and purposes.

The fact that symbolic and constitutional visits for acts of Royal Assent have been relegated to inconvenient times says a great deal more about how the Senate views its constitutional duties, the role of the Governor General and, more important, the role of history and symbolism in Canadian parliamentary practice and, in turn, the richness of Canadian identity.

Honourable senators, I say more visits, better timed to the Governor General, with greater publicity and wider explication attending the introduction of new laws, would enhance public interest and public education, rather than collaborate with public indifference about the importance of Royal Assent; indifference to the role of the Governor General; and public ignorance of the constitutional mandate of the Senate.

It will come as no surprise, honourable senators, or new news that I cannot support Bill S-26 as presented by the Leader of the

Opposition in the Senate. Perhaps we should wait a time. Perhaps we should wait until a new Governor General is appointed this summer. He or she may undertake a renewed interest in exercising his or her constitutional duties in the presence of this honourable house, in the presence of the Senate.

On motion of Senator Carstairs, for Senator Poulin, debate adjourned.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Marie-P. Poulin, pursuant to notice of May 11, 1999, moved:

That the Standing Senate Committee on Transport and Communications be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

BUSINESS OF THE SENATE

The Hon. the Speaker: Is there agreement, honourable senators, that all other matters remain standing as they are on the Order Paper?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2:00 p.m.

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(HANSARD)

Thursday, May 13, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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THE SENATE

Thursday, May 13, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

ACADIA UNIVERSITY

ACADIA ADVANTAGE PROGRAM

Hon. Norman K. Atkins: Honourable senators, I wish to draw the attention of the Senate to certain remarkable achievements that have been taking place at an institution located in the Annapolis Valley in the province of Nova Scotia. Acadia University's Acadia Advantage Program became part of the Permanent Research Collection on Information Technology at the Smithsonian Institute's National Museum of American History on April 16, 1999. On that date, the 1999 Information Technology Innovation Collection was formally presented to the Smithsonian.

For those of you who do not know, the Acadia Advantage is an academic initiative that integrates the use of technology into the undergraduate curriculum, providing students and faculty with notebook computers. To accomplish this, Acadia facilitated computer training for faculty and students. The classrooms, common areas and residences were fully wired to allow access by both faculty and students from all parts of the campus. The Acadia Advantage Program has enriched the curriculum, provided students and faculty with vital communication links, and allowed all of the participants to access on-line resources from around the world.

Imagine, as a student, being able to communicate with professors and experts around the world from your own portable computer. Research and learning is at your fingertips. This is also an important asset for instruction in the classroom.

A great deal of the credit for this far-reaching venture belongs to the president of Acadia University, Dr. Kelvin Ogilvie, whose visionary thinking spearheaded the changes necessary to implement this program four years ago.

As he said recently:

We knew at the outset this was a major innovation. One would say it was almost revolutionary in the way it helps faculty change the learning environment.

In addition to this honour bestowed on Acadia by the Smithsonian, honourable senators should know that the Acadia Advantage has been nominated for the Computerworld

Smithsonian Award. This is the first time that Acadia has received international recognition for its program. It should be noted that Acadia is the only Canadian institute to be nominated in the Education and Academia category. The winner of this coveted award will be announced at the beginning of June.

It is little wonder that with all these good things happening at Acadia, resulting in national and international recognition. Acadia has recently received one of the largest gifts ever given to a university in Canada. The Irving family has donated to the university a world-class environmental sciences research centre, botanical gardens and campus meeting place to be built on eight acres on the west side of the Acadia campus.

This centre will be unique in North America. It will contain all of the plant species grown in the north-eastern part of Canada and the United States. When it is completed, it will be a facility that will allow world-class research to be conducted and will attract students from all over the world to study at the university. As well as a research centre, it will have common areas to enable students and faculty to gather in one of the prettiest areas of the campus.

We are living in a time of scarce resources. This presents many challenges to our educational institutions. They are being forced to innovate if they wish to be competitive in the market-place of learning and ideas. They must also be fiscally responsible both in management and in administration.

By the way in which it has adopted computer technology for the benefit of students and faculty, as well as partnering with the private sector, Acadia has demonstrated that it can meet these challenges and succeed.

[*Translation*]

QUEBEC MAJOR JUNIOR HOCKEY LEAGUE CHAMPIONSHIP

CONGRATULATIONS TO TITANS OF ACADIE-BATHURST

Hon. Fernand Robichaud: Honourable senators, I should like to congratulate the members of the Titans of Acadie-Bathurst for carrying off top honours in the Quebec Major Junior Hockey League championship, which ended last Friday, May 7, 1999 at Bathurst. The Titans won out over the Hull Olympiques in the seventh and final game of the series. I had the pleasure of seeing some of the games, and we were treated to some great hockey. Players on both teams turned in performances that were worthy of our national sport. My congratulations also to the coaches, Roger Dejoe of the Titans and Claude Julien of the Olympiques, who did an excellent job in guiding these young players.

I should also like to wish the best of luck to the grand champions of the Quebec Major Junior Hockey League, the Acadie-Bathurst Titans, in the Memorial Cup series which will be starting shortly, here in Ottawa.

[*English*]

• (1410)

INTERNATIONAL DAY OF FAMILIES

Hon. Thérèse Lavoie-Roux: Honourable senators, next Saturday, May 15, is the International Day of Families, as declared by the United Nations General Assembly. This is an occasion to reach out to Canadians and encourage them to honour this day by promoting the importance of families.

The family touches upon so many facets of life. Families are educators; they are providers; they nurture and they reinforce. It is true of the family that individuals are helped in meeting their basic needs of food and shelter, and their need for a sense of belonging.

Family life is a vital source of strength and love, but it can also be a source of immense suffering and pain, such as when hate, violence or abuse exist within a family. It is crucial that we take leadership and manage every effort possible to end abuse and violence in families. As well, we must provide Canadian families with enough support to enable them to thrive in our communities. Families need to be supportive and encouraged. They need the necessary resources to build a good life.

Every day, the family adjusts to external influences, trying to meet the social, economic and psychological challenges which tug and pull at the fabric of family life. The Vanier Institute of the Family reports that the average Canadian family needs two wage earners just to cover basic expenses. The consequence of juggling workplace and family demands can result in a great deal of stress and guilt, especially when the workplace fails to take into account family responsibilities, or when there is a shortage of child care or elder care.

Although caring for children is the most generally recognized responsibility of families, increasingly, families are caring for an elderly family member. However, there are many elderly people who lack the care that families can provide. More and more, seniors will need support in order to live full lives in our communities.

Honourable senators, this year the theme of the International Day of Families is "Families for All Ages." People of all ages need family. I cannot image life without a family. It has one of the most significant bearings on our well-being. Families have the responsibility to look after their members, and our society has the responsibility to support this by fostering family-friendly policies and by helping families in serious need.

Therefore, on this day, may we reflect upon the challenges facing families in our society. Most important, let us honour the resilience of the family.

[*Translation*]

I should just like to remind my colleagues that they have no doubt received the National Council of Welfare report "Pre-School Children: Promises to Keep."

[*English*]

My colleagues will probably have a few free minutes in the next two weeks, so I would invite them to read this. We can keep making statements, but we must be more active in helping families and attempting to solve the various problems our society faces.

[*Translation*]

THE HONOURABLE SOLANGE CHAPUT-ROLLAND

Hon. Thérèse Lavoie-Roux: Honourable senators, I should just point out to my colleagues, if I may, that tomorrow is the 80th birthday of our former colleague the Honourable Solange Chaput-Rolland. She is not very well, so I am sure that she would be delighted to hear from some of you.

NATIONAL NURSING WEEK

Hon. Lucie Pépin: Honourable senators, as a former nurse, I should like to join with those of my colleagues who have already spoken on this to remind everyone that this is National Nursing Week. Let us take a few moments to reflect on the huge contribution made by Canada's nurses. There is no doubt whatsoever that registered nurses are the cornerstones of Canada's health system. Without their unflagging support, we would never have had the quality and accessible health care we now have.

In times of great restructuring, however, the nursing personnel also lives in the climate of uncertainty and stress that accompanies all change. Since 1992, over 20,000 full-time nursing positions have been made part-time or casual.

As the nursing personnel lost their job security and the corresponding salary, cuts to the health care system added to their workload. In interviews by the nursing faculty at Laval University in 1998, three nurses out of four said that they could no longer manage and could no longer do their jobs as they would like.

In our attempts at efficiency and our efforts towards savings, we replaced licensed nursing personnel with personnel that had less training and did not belong to a regulated profession. Not only did this move discredit the vital role played by nurses in our health care system, but, according to a number of studies, generic caregivers are less productive and require more supervision than licensed nurses.

[English]

Given this depressing situation, is it any surprise that provincial governments across the country find themselves facing livid nurses? Nurses are incredibly patient, dedicated and responsible. It comes with the profession. If they are striking, or threatening to strike, it is because they are backed up to the wall and see no other means of expressing their frustration with the short-term vision of recent health reform initiatives.

It is time for governments and health administrators to recognize the true contribution of nurses. If we want to move towards patient-centred care and a community-based delivery system in Canada, and if we want to maintain quality and access, how can we afford to treat our nurses in the way in which we have been treating them?

Nurses are incredibly well placed to advise governments and health administrators on health care reform. Who else is as close to the front lines and as close to patient needs as are nurses?

If these arguments do not convince us, maybe the following one will: Nurses represent approximately one out of every seven voters in Canada. The profession is becoming increasingly cohesive and politicized. Politicians simply cannot afford to ignore them any longer.

[Translation]

The Minister of Health had the sense to recognize the strength of the profession and he invested where it counts. He created in the 1999 federal budget a \$25-million fund to support research in nursing care. Let us hope that this is the first of a number of initiatives in Canada to encourage nurses and support their role in reforming health care. I therefore encourage you, honourable senators, to support action by nurses in each of your regions. We owe them our support in recognition for the service they have rendered.

[English]

VETERANS AFFAIRS

BLACK SERVICE BATTALION

Hon. Calvin Woodrow Ruck: Honourable senators, in 1916, two years after the outbreak of World War I, the government of Sir Robert Borden authorized the creation of the Segregated Black Battalion, now known as No. 2 Construction Battalion. This came about due to the fact that black volunteers were having an extremely difficult time enlisting in the Canadian Forces. Commonly heard were the phrases "This is a white man's war," or "We will call you when we need you." However, these black volunteers persisted, and finally the government decided to authorize the creation of an all-black battalion. The battalion was under the leadership of Colonel Sutherland from Pictou, Nova Scotia.

Each year, on the second Saturday in July, we return to Pictou to honour those veterans. The interim government of

Kim Campbell recognized that battalion a few years ago by the erection of a monument in the Town of Pictou. Consequently, we make an annual pilgrimage to Pictou.

• (1420)

These men did not ask to serve in a segregated naval battalion. They were willing to serve in any capacity. From Saltspring Island in British Columbia to Cape Breton Island, they received the same treatment: "We will call you when we need you." They went overseas as a construction battalion attached to the forestry corps. They were commended by the government for their service to king and country.

I am sure many Canadians are unaware of the presence of a black battalion during World War I. They had mostly white officers, except that the chaplain was black, and he came from the U.S.A. The battalion did the work they were asked to do as members of the forestry corps, and they were commended for their service. They returned home after service, and it was not until 52 years later that they were recognized for their service by the government of Kim Campbell, with the erection of the monument.

We are proud of that battalion. Some of them were our grandfathers and fathers. They did the work they were asked to do.

If World War III were to break out, black men would still be proud and eager to join with their white compatriots and serve their country. We love this country, and we will do all we can to ensure that the country is preserved.

CONFLICT IN YUGOSLAVIA

Hon. Francis William Mahovlich: Honourable senators:

When children's children shall talk of war
as a madness that may not be;
When we thank Our God for our grief today,
and blazon from sea to sea
In the name of the Dead the Banner of Peace —
That will be Victory.

Those are the words of Robert Service.

Gwynne Dyer, a Canadian-born writer based in London, and one of the world's foremost authorities on military history, was quoted as saying that no great powers in the current international system have vital interests in the Balkans. Economically and strategically, the region has simply fallen off the map, so nothing that happens there now is likely to spread beyond the region. In other words: The third world war is not likely to arise out of this conflict.

I asked this question the other day of Dr. Herspring, professor of political science at Kansas State University, and he says that that is not so. It very well might happen.

Senator Whelan is often quoted as saying, "Frank, you cannot prove a negative." It is true you cannot prove it, but time might be the factor that can prove the negative. If we wait long enough, time might be the only factor that can prove a negative.

Gordon Barfors of the Department of Foreign Affairs says yes, there are guilty parties in this catastrophe in the Balkans apart from its chief architect, Slobodan Milosevic, but do not look for them at NATO in Brussels. He says we should try Moscow and China. That makes me think. It sounds logical. If Russia decided to tell Milosevic not to go into Kosovo, we might not have had a problem.

The Toronto Star, a Liberal paper, quoted General Klaus Newman as saying the alliance air campaign will be prolonged by the failure to use overwhelming force, and that the Yugoslav president could still achieve his aim of the mass deportation of ethnic Albanians.

The Russia envoy, Victor Chernomyrdin, said the United Nations must be engaged in slowing the Kosovo crisis. The United Nations, according to Professor Bliss of the University of Toronto, is a paralyzed institution.

As in any war, there is propaganda, and that is what I am reading every time I pick up a newspaper.

Long before NATO struck at Yugoslavia, Mr. Milosevic's monetary madness had done its damage. Wreck an economy; start a war. It is an age-old ploy. Sound currency is a basic human need. Slobodan Milosevic should be put in the dock on yet another human rights infraction — if someone can tell me what passes for human rights in that part of the world.

James Bisay, Canadian ambassador to Yugoslavia in 1990, was quoted on CPAC the other day as saying that the Senate is not paying enough attention to Kosovo in their debates and discussion. His remarks were not favourable to the Senate, to say the least. He went further to say that the Russian nuclear arsenal is well oiled and ready for service, which is contradictory to what I have heard previously.

I think that if the Senate could invite Mr. Bisay to speak to the Senate, it would be very enlightening. His presence would be a challenge for us.

ROUTINE PROCEEDINGS

COASTAL FISHERIES PROTECTION ACT CANADA SHIPPING ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Gerald J. Comeau, Chairman of the Standing Senate Committee on Fisheries, presented the following report:

Thursday, May 13, 1999

The Standing Senate Committee on Fisheries has the honour to present its

FOURTH REPORT

Your committee, to which was referred Bill C-27, to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements, has, in obedience to the Order of Reference of Tuesday, April 27, 1999, examined the said Bill and now reports the same without amendment.

Observation:

Your committee notes that it instructed the Law Clerk and Parliamentary Counsel to correct a printing error in the parchment by adding the following words in the English version of the bill, on page 6, in clause 4, after the last word on line 18: "pursuit that began while the vessel was in Canadian fisheries waters."

Respectfully submitted,

GERALD J. COMEAU
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Fernand Robichaud: Honourable senators, with leave, later this day.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, with leave of the Senate and notwithstanding rule 58(1)(b), that this bill be read the third time later this day. Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have no objection, but I would like to see a copy of the report. If we are giving leave, we should know what we are giving leave on, and we should see what the report says, even if it is just one paragraph.

The Hon. the Speaker: Honourable senators, do you wish me to defer this motion?

Senator Lynch-Staunton: I have no objection, honourable senators. It will be deferred anyway, since the motion is for consideration later this day. However, if we are giving leave for third reading later this day, we should at least have a copy of the report before us, to know the comments of the committee on the bill and perhaps have a discussion at third reading on it.

The Hon. the Speaker: I would ask the Clerk to read the report in full.

Senator Lynch-Staunton: That is not necessary. I wish to have a copy distributed.

The Hon. the Speaker: We will provide a copy in the meantime. Would it be agreeable, honourable senators, that we leave this matter in suspension for the time being and proceed to other reports of committees? We can revert to it when we get the written text.

Hon. Senators: Agreed.

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

STUDY OF TABLED DOCUMENT—REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Lorna Milne: Honourable senators, I have the honour to present the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs which deals with the proposals to correct certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada, to deal with other matters of a non-controversial and uncomplicated nature therein and to repeal certain provisions thereof that have expired or lapsed or otherwise ceased to have effect.

I ask that it be appended to the *Journals of the Senate* for this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(*For text of report, see today's Journals of the Senate, Appendix "A", p. 1618.*)

• (1430)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Milne: With leave of the Senate, later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, once again, we have a report on a bill which the committee has studied. Surely we should have the

benefit of its efforts before us in writing before we rush through third reading. Just because this happens to be the last day before we take a break does not mean we must be hasty.

The Hon. the Speaker: We will have the report printed. I suggest that we leave this one until we have dealt with all reports of committees before we proceed.

[Translation]

SCRUTINY OF REGULATIONS

BUDGET REPORT OF JOINT COMMITTEE
PRESENTED AND PRINTED AS APPENDIX

Hon. Céline Hervieux-Payette, Joint Chair of the Standing Joint Committee for the Scrutiny of Regulations, presents the following report:

Thursday, May 13, 1999

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

FIFTH REPORT
("A" presented only for the Senate)

Your committee, which is authorized by section 19 of the Statutory Instruments Act, R.S.C. 1985, c. S-22, to review and scrutinize statutory instruments, now requests approval of funds for 1999-2000.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE
Joint Chair

(*For text of report, see today's Journals of the Senate, Appendix "B", p. 1631.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Hervieux-Payette: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that this report be now adopted.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, it is the same with this report. May we have a printed copy in front of us? We have heard what the Clerk Assistant has read, but we wish to have a copy in front of us.

[Translation]

The Hon. the Speaker: Honorable senators, we will leave agreement until a bit later today.

[English]

FIRST NATIONS LAND MANAGEMENT BILL

REPORT OF COMMITTEE

Hon. Charlie Watt, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, May 13, 1999

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

NINTH REPORT

Your committee, to which was referred Bill C-49, providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management, has, in obedience to the Order of Reference of Tuesday, April 13, 1999, examined the said Bill and now reports the same with the following amendments and observations:

Clause 28, page 15:

1. In the English version, replace line 25 with the following:

"other first nation community purposes."

2. Replace lines 42 and 43 with the following:

"first nation shall apply the rules set out in the Expropriation Act, with such modifications as the circumstances require."

Your committee is highly sensitive to the vital importance of the Bill C-49 land management initiative to the economic, social and political development of the participating First Nations, and urges that the bill be proceeded with expeditiously.

Your committee acknowledges receipt of the May 12 letter from the Minister of Indian Affairs and Northern Development sharing the committee's concern for the pressing need to address aboriginal women's rights issues, including the division of matrimonial property. In light of existing constitutional guarantees, your committee endorses the Minister's invitation to assist her by studying these issues in a formal way, and undertakes to pursue the requested study in the fall 1999 session.

Respectfully submitted,

CHARLIE WATT
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Watt: With leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be adopted now.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am personally more familiar with this issue than with the other three that preceded it. However, I feel that, out of respect for the Senate, the report should be printed ahead of time, distributed and be on our desks. Although our Table Officers read very well, it is incumbent on us to study these reports and have them in front of us, after which we can make the appropriate decision.

When reports are to be read, I urge our Table Officers to ensure that there are enough copies to be distributed to all senators at the time of the reading of the report.

Hon. Noël Kinsella (Acting Deputy Leader of the Opposition): Honourable senators, leave was requested to proceed with this matter now. I would like to recommend that Senator Watt consider making that request later this day under Orders of the Day, Government Business. In the meantime, the Table will see that the report is circulated.

The Hon. the Speaker: Honourable senators, this concludes Presentation of Reports from Standing or Special Committees. However, we have a whole series of them now which are in abeyance at the request of the Leader of the Opposition. I suggest that we ask for leave to revert later this day to Presentation of Reports from Standing or Special Committees when we have the text of each of the aforementioned reports.

Honourable senators, is it agreed?

Hon. Senators: Agreed.

PRIVATE BILL

CANADIAN DISTRICT OF MORAVIAN CHURCH OF AMERICA— FIRST READING

Hon. Nicholas W. Taylor presented Bill S-30, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Taylor, bill placed on the Orders of the Day for second reading on Monday, May 31, 1999.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION FOR AUTHORITY TO STUDY ISSUES
RELATING TO PERSONS COMING UNDER JURISDICTION
OF DEPARTMENT OF VETERANS AFFAIRS

Hon. R. James Balfour: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to undertake a study on issues relating to persons coming under the jurisdiction of Veterans Affairs Canada, including the availability, quality and standards of all benefits available to such persons;

That the committee be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings;

That the committee be empowered to present its final report no later than March 31, 2000; and

That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

• (1440)

SOLUTIONS TO TOBACCO PROBLEM

NOTICE OF INQUIRY

Hon. Colin Kenny: Honourable senators, I give notice that on June 2, 1999, I will call the attention of the Senate to solutions to the tobacco problem.

**PAGES EXCHANGE PROGRAM
WITH HOUSE OF COMMONS**

The Hon. the Speaker: Honourable senators, I keep you informed usually of our exchanges of pages with the House of Commons. On this occasion, I regret to inform you that one of our pages is leaving us. Kelli Hogan, presently a resident of Hull, Quebec, and recent fourth-year graduate of the University of Ottawa in political science and psychology, leaves us today to further her learning experience in the House of Commons, where she will be working for a member of Parliament.

Sorry as we are to see Kelli leave, we are pleased that our pages proceed in the parliamentary system to other offices, where I am sure that they will be providing very good information on the Senate.

QUESTION PERIOD**TRANSPORT**

PORT OF HALIFAX—LOSS OF BID TO BECOME HARBOUR FOR SUPERTANKERS—POSSIBLE UPGRADE—GOVERNMENT POSITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

Port officials in Halifax, Nova Scotia, suffered a major disappointment last week when shipping companies Maersk Inc. and Sea-Land Corp. selected New York–New Jersey as the home for their East Coast superport. Halifax and Baltimore were bypassed for the multimillion-dollar project.

The news media reported that Halifax was too far removed from major North American markets to act as the port for extra-large container ships. In view of this rejection, can the Leader of the Government tell us what steps the Government of Canada will now take to continue to support the Port of Halifax and build it up so that it can be capable of dealing with overflows that the New York–New Jersey port will be unable to handle?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I wish to thank the Honourable Senator Oliver for his question. I was in Halifax last week at the time of the announcement. There is no question that there was disappointment in the community. As a matter of fact, I think there has been disappointment right across the country. It was not just Halifax versus New York.

The Government of Canada, through its various departments that were involved, assisted in the bid by the Port of Halifax and the Government of Nova Scotia. As a matter of fact, our Ambassador to the United States and our Consul General in New York accompanied Premier MacLellan and other officials when they met with the Maersk–Sea-Land people in the United States.

I should also say that the Prime Minister wrote a letter to the Chief Executive Officer, Mr. M. Møller, Senior Partner and Chairman of A.P. Møller Group, the parent company. The letter from the Prime Minister says:

The people of Canada, like the citizens of your own Denmark, embrace a proud maritime tradition, so it is no surprise that we recognize and understand fully how your post-Panamax generation of vessels is revolutionizing the way the shipping industry does business.

As we stride into the 21st century, we recognize the important changes that are occurring in global shipping. As such, the eastern Canadian Port of Halifax, Nova Scotia, has launched a solid bid in a competition with two American ports to be the site of a new terminal for your ships. The Honourable Russell MacLellan, Premier of Nova Scotia, advises me that the Halifax bid is one of confidence, based on the port's unique combination of advantages, including a natural deep-water harbour and unrivalled potential for feeder ships to serve American ports. These geographic benefits are backed by a strong business case for a terminal to fit Maersk's requirements.

My government wholeheartedly supports the choice of Halifax for your east coast business. As you may be aware, the Halifax bid has received the formal support of the governments of every province and territory in Canada and it enjoys unprecedented community-wide support in Halifax. This is because Canadians believe that your terminal in Halifax will lead to opportunities extending well into the future, beyond Canada and into the rest of North America, and indeed, the world.

I am hopeful for a successful outcome for the Halifax bid.

Yours sincerely,
Jean Chrétien.

If it is the wish of the Senate, I will be happy to table the Prime Minister's letter in both official languages.

Senator Oliver: Honourable senators, that was interesting. It confirms the government's support of the bid. However, Halifax was not successful; their bid was rejected.

What will the Government of Canada do now to help build up the infrastructure of the Port of Halifax? How much money will the federal government commit to building up the port so that some of the overflow from the successful bidder can go to the Port of Halifax to strengthen that port?

Senator Graham: Honourable senators, the government would respond, obviously, in a positive way to any legitimate and positive proposal put forward by the port partnership. As part of its 1998 capital budget, the Halifax Port Commission sought and obtained federal approval for a dredging project at three locations in and near the Narrows, which is the passage to Bedford Basin and Halifax Harbour, for a total cost of \$3 million.

With regard to dredging, it is worth noting that while New York-New Jersey got the award, the depth of the channels in New York-New Jersey is presently 40 feet. They will dredge to 45 feet. It will cost them an estimated \$500 million to \$700 million U.S. to deepen the channel. It will take them quite some time to do so. They will not do it in one or two years. Blasting and dredging will be involved and it could take several years. We have been assured that Maersk-Sea-Land will continue to call at Halifax, which we believe has the best harbour in the world.

Halifax has a natural depth of 60 feet compared to Baltimore's 50 feet. With that 50 feet, Baltimore would still require some dredging near the piers. New York-New Jersey has 40 feet and it is being dredged to 45 feet. A fully loaded, post-Panamax vessel would have great difficulty getting into New York-New Jersey Harbour even after dredging.

There will be other companies on the global scene. Halifax is well positioned, both now and in the future, to take advantage of the shipping and the offloading that is still taking place. We have been assured of that by Maersk-Sea-Land.

NATIONAL DEFENCE

PROPOSAL TO REDUCE RESERVES—POSSIBLE LOSS OF NOVA SCOTIA REGIMENTS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is for the minister. In internal documents, including one from the Chief of the Land Staff, the army is recommending the reduction of reserve infantry regiments from 51 to 20; artillery regiments from 15 to 7; and armoured regiments from 17 to 10.

My question for the minister is apropos my comments yesterday. What steps are being taken to ensure that Nova Scotia, already below four battalions, will not lose completely any one of its four principle units by merger or absorption by other units?

• (1450)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I can assure the honourable senator that I have already made representations in that regard to the Minister of National Defence.

I praise the contribution made over the years by the militia. To demonstrate that the militia does have a future in the Department of National Defence, the Government of Canada has funded two new buildings at Victoria Park in Sydney for the very purposes of serving the militia and the reserves.

Senator Forrestall: It is a laughing-stock in Nova Scotia, honourable senators, much to my chagrin and regret.

Senator Graham: Perhaps you could take a positive view of the military and of the facilities being provided by the Government of Canada.

Senator Forrestall: I invite the Leader of the Government in the Senate to get on the phone and call Land Force Atlantic, speak to General Foster and ask him about the plans which he just submitted to the government approximately 10 days ago.

PROPOSAL TO REDUCE RESERVES—REDUCTION OF COMBAT ARMS PRESENCE

Hon. J. Michael Forrestall: Honourable senators, the documents also recommended reducing the combat arms presence, the bayonets and such, of the militia from 75 per cent to 35 per cent. Young men and women joined the combat arms because it caught their imagination and allowed them to serve their country.

You cannot turn that around and say here is a postal platoon in the age of e-mails and expect young men and women to continue to find a future of sorts in the Canadian militia.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, with all due respect to Senator Forrestall, perhaps he should visit Sydney and talk to the reservists in the militia down there. I am doing my very best.

Senator Forrestall: I know you are but do not let them snow you.

Senator Graham: When I take part in the official opening in Cape Breton of one building —

Senator Forrestall: I am on your side.

Senator Graham: — provided by the Government of Canada for the militia in Cape Breton and I take part in the sod-turning of another new building, I am taking part in positive moves by the Government of Canada for our militia and for our reserves, which have made outstanding contributions to our Armed Forces and to this country.

PROPOSAL TO REDUCE RESERVES—HEADQUARTERS
OF UNITS LOCATED IN CAPE BRETON, NOVA SCOTIA—
GOVERNMENT POSITION

Hon. J. Michael Forrestall: Can I take it then from the absence of any new buildings anywhere else in Nova Scotia, that reserve units in Nova Scotia will be centred in Cape Breton?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, a working group that included Reserve 2000, a council of honorary colonels and reserve area deputy commanders, produced a preliminary proposal in April. It must now be studied in detail and evaluated against all the criteria established for reserves restructuring. I have been assured by the Minister of National Defence that they will look at any positive recommendations in a very realistic way.

Senator Forrestall: You got it.

AGRICULTURE

DECLINING STATE OF INDUSTRY—
RESPONSE OF GOVERNMENT—REQUEST FOR UPDATE

Hon. Leonard J. Gustafson: Honourable senators, I take no joy in having to ask questions about crisis situations in agriculture. We farmers are proud people. If we have one major fault, it is that we are too productive. However, that has been a great strength for this country.

I ask the Leader of the Government in the Senate, given the questions asked yesterday and his promises to carry the concerns raised to cabinet and the Prime Minister: Does he have any news or positive things to tell us today?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I spoke directly with the Prime Minister. I spoke directly with the Minister of Agriculture both yesterday afternoon and for some extended time this morning during a cabinet committee meeting from 8 a.m. until 1:30 this afternoon. There were a couple of breaks where we had the opportunity to talk individually with one another.

I do not have any official statement to make on his behalf, except his reminder that the Agriculture Income Disaster Assistance Program, which provided \$900 million in aid to

western farmers, as announced last December 10, was intended to address the unexpected precipitous drop particularly in grain and hog prices in 1998 to below 1997 prices.

Even before the creation of AIDA, the Minister of Agriculture had begun discussions with the agriculture industry and also the provinces. He is in daily contact with the provinces to discuss the overall review of the farm safety net program and the effectiveness of that package of risk management products.

The experience of AIDA in 1998 will be used in reviewing the overall situation and, if necessary, modifications will be made for 1999. Remember, payments are made on a 60/40 cost-sharing basis and, therefore, require the agreement of all provinces.

I believe at the time Minister of Agriculture made the announcement, he said it would not be the "be all and end all" for every producer. However, it might be useful if honourable senators used their energies to encourage farmers to fill out the necessary forms. There are great difficulties, particularly in Saskatchewan, as was pointed out by Senator Gustafson and Senator Andreychuk yesterday. In other provinces, the program is apparently working well and the farmers are filling out the forms. All honourable senators should encourage the farmers to fill out those forms at this very critical time of the year.

Senator Gustafson: Honourable senators, I certainly appreciate the Leader of the Government taking this matter to cabinet and the Prime Minister. I hope that he will continue to do so because this is a serious crisis. I do not believe the government realized how serious the problem was when they responded to the lower commodity prices in hogs. They responded quickly but the problem is greater than that. The commodity prices of grain have dropped. A serious crisis is developing. By midsummer, it will be worse. Many farmers do not have the funds to put in a crop. It is very difficult for them.

The government must take the ad hoc steps necessary to alleviate the problem. We do not like the terms "ad hoc" or "cultivated acreage," et cetera, but it must be done. We need both a short-term program and a long-term program. Again, I appreciate the leader carrying the matter to the government. I ask that he continue to do so because the situation is very serious. That is more of a statement than a question but it had to be said.

Senator Graham: Let me respond to the valuable statement.

In order to acquaint myself better with the situation and with the view of westerners, I asked for some newspaper clippings. I have one clipping from the *Star Phoenix* of Saskatoon, printed yesterday. Kevin Hursh is the author.

• (1500)

I will read the first sentence and the last sentence. The headline is "Farmers shouldn't be cowed by AIDA." The first line reads:

Just fill out the darn form and send it in. This is perhaps the best advice there is regarding AIDA, the Agricultural Income Disaster Assistance program.

The final line reads:

As a market-oriented disaster program, AIDA is probably on the right track. If you want to turn agriculture into a long-term welfare case, AIDA is not the plan.

SHORTCOMINGS IN AGRICULTURE INCOME
DISASTER ASSISTANCE PROGRAM—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, that illustrates that the AIDA program is not working. It is based on 70 per cent of the average of the last three years. Seventy per cent of the three-year average income for farmers in a drought area such as western Saskatchewan, or for those who have been hailed out, like my neighbours, is zero. In addition, there has been great confusion about the program. I have not yet encountered a farm group that says this program will work, including the Federation of Agriculture, with which I met yesterday.

The findings of the Standing Senate Committee on Agriculture on this matter are very serious.

Will the Leader of the Government in the Senate continue to carry this matter to the Prime Minister and cabinet?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I will speak again to my colleague the Minister of Agriculture and will bring to him, later this day, the concerns which have been expressed.

DECLINING STATE OF INDUSTRY—RESPONSE OF GOVERNMENT

Hon. A. Raynell Andreychuk: Honourable senators, the points made by the Leader of the Government in the Senate may be valid here, but they are not valid in parts of Saskatchewan. One cannot simply fill out the forms and expect a magic answer. Farmers are very clever. As Senator Gustafson has pointed out, even if they fill out the form, they will end up with nothing. They know that.

There is now a suicide watch among farm families in Saskatchewan. Think of being isolated on a farm with children and knowing that you have no money. Why would you fill out a form that you know will not change your position?

That is the issue with which we must grapple. We are asking for immediate action on the crisis in which farm families in Saskatchewan find themselves.

We are asking for something now. We are asking not for long-term welfare but for short-term action in this crisis situation so that those suicide watches do not continue to be necessary.

Hon. B. Alasdair Graham (Leader of the Government): I thank the Honourable Senator Andreychuk for bringing that aspect to our attention. It is not good news, but I did get an indication from my discussions with various sources today that more farmers are filling out the forms than was the case last week.

I recognize the difficulties in Western Canada, and particularly in Saskatchewan. However, I wish to make the point that the most recent farm income forecasts project a 1999 net cash income of \$6.7 billion for the entire sector. That would be an 11 per cent increase over the previous five-year average.

Senator Andreychuk: Honourable senators, that may be true for the overall average but there are pockets of difficulties in the small family farms where there is not the flexibility to look optimistically to the future. How will we get these people to the future when they are leaving their farms? They will not be there to benefit from next year's forecast. Something must be done immediately.

We have experienced an ice storm and floods. The current situation in agriculture has the same dramatic effect on family farms in Saskatchewan.

Senator Graham: I thank the honourable senator for her further comment. I treat this matter very seriously. I shall again talk to my colleague later today.

[Translation]

FOREIGN AFFAIRS

ORGANIZATION OF MEETING BETWEEN PRESIDENT OF MEXICO
AND PREMIER OF QUEBEC—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my first question has to do with the circumstances surrounding the decision of the Department of Foreign Affairs as to whether or not to organize a meeting between the Premier of Quebec and the President of the Republic of Mexico, Ernesto Zedillo. Will the Leader of the Government explain to us the government's policy in this regard?

My second question has to do with something I read in the *National Post*.

[English]

It quotes Stéphane Dion, Minister of Intergovernmental Affairs, in reference to the meeting that the Right Honourable Joe Clark, the Leader of the Progressive Conservative Party, had with Lucien Bouchard as follows:

Mr. Clark will never learn. The other day he said that he was still friends with Lucien Bouchard...

I was a deputy minister to Lucien Bouchard and still consider myself his friend. Does the government not believe that bridges can be better built on the pillars and piers of friendship than on those of dissociation?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I agree with communication and pillars of friendship. I also recognize that Canada speaks for Canada in international negotiations.

[Translation]

INTERGOVERNMENTAL AFFAIRS

COMMENTS BY MINISTER DION—REQUEST FOR CLARIFICATION

Hon. Pierre Claude Nolin: Honourable senators, once again, we are dealing with a very sensitive issue in our federation, that is the relations between Quebec and Canada. Could the minister explain in greater detail the tactless position taken by Minister Dion? This position is an insult to Quebecers, even those who are not separatists. When Minister Dion wonders about the friendship that may exist between a federalist from Alberta, a former prime minister, the Right Honourable Joe Clark, and the premier of all Quebecers, can the Leader of the Government tell us if this reflects the government's position, or if it is only the minister's position?

[English]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall ask Minister Dion for further clarification in the event that he has anything to add to what he has already said.

Senator Nolin: Am I correct that it is not the position of the government, but that of Mr. Dion, to be confrontational with the Quebec government?

Senator Graham: Honourable senators, Mr. Dion is Minister of Intergovernmental Affairs. I shall be pleased to bring the representations of Senator Nolin to his attention.

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION—PROGRESS IN NEGOTIATIONS WITH PROVINCES—REQUEST FOR UPDATE

Hon. Ethel Cochrane: Honourable senators, there have been reports that the government is continuing to have difficulty negotiating with Quebec the details of the administration of the Millennium Scholarship Foundation. Can the Leader of the Government in the Senate tell us how many provinces have reached an agreement on the administration of this fund? Is there an agreement with the Province of Newfoundland and Labrador?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the agreement would not be between the Government of Canada and the individual provinces; it would be between the Millennium Scholarship Foundation and the individual provinces. I do not know how many provinces or which provinces have reached an agreement with that foundation.

It is my understanding that progress is being made between the foundation and the Province of Quebec. As I indicated two weeks ago, Minister Pettigrew has agreed to appoint a facilitator. I believe progress is being made in that respect so that students in Quebec will not be adversely affected in any way.

I would be happy to bring forth a report with respect to the progress of negotiations between the foundation and the various provinces.

Senator Cochrane: Honourable senators, the academic year is now over for post-secondary institutions, and hundreds of thousands of students have added to their student loan debt burdens. A new academic year will begin in September.

I ask the honourable leader again: Why will the government not use money from the millennium scholarship fund to provide money for students this September? Why should they take up yet more debt when the government has money set aside for this?

Senator Graham: It is true that in its fiscal management program — and a very responsible one it is — the government has booked the money. However, the millennium scholarship is just that — it does not start until the millennium.

Honourable senators, I have been checking my notes, and I understand that the Canadian Millennium Scholarship Foundation has signed, this week, agreements with the Provinces of Ontario and Alberta. I am not aware of any other signings.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have response to questions raised in the Senate on April 27, 1999, by the Honourable Senator Roch Bolduc and the Honourable Senator Pierre Claude Nolin regarding the loss of favoured exemption from international traffic in arms regulations and a possible trade dispute; and a response to questions raised in the Senate on April 27, 1999, by the Honourable Senator Fernand Roberge and the Honourable Senator A. Raynell Andreychuk regarding the conflict in Yugoslavia, summit meeting in Washington, imposition of embargo on military commitment, and oil supply.

CANADA-UNITED STATES RELATIONS

LOSS OF FAVOURED EXEMPTION FROM INTERNATIONAL TRAFFIC IN ARMS REGULATIONS—POSSIBLE TRADE DISPUTE—EFFECT ON INDUSTRY—TERMS OF MORATORIUM

(Response to questions raised by Hon. Roch Bolduc and Hon. Pierre Claude Nolin on April 27, 1999)

The Minister of Foreign Affairs met with US Secretary of State Madeleine Albright on the margins of the NATO Ministerial on April 22, 1999. Minister Axworthy and Madam Albright stressed the importance of maintaining close defence cooperation. The Minister received a positive commitment from Madam Albright to ensure that the amendments to the US *International Traffic in Arms Regulations* (ITAR) are implemented in such a way as to mitigate the effects of the changes on the North American defence industry.

Although the changes to the ITAR are in effect, the Minister did receive a commitment that there would be a 120-day review period to evaluate and revisit the core issues. This review period will allow officials to examine, in depth, the potential impact on Canadian industry, and at the same time, look a ways to mitigate those affects.

Senior level discussions and meetings are continuing between US and Canadian officials throughout this period. Officials will also be consulting closely with [Canadian] industry.

NORTH ATLANTIC TREATY ORGANIZATION

CONFLICT IN YUGOSLAVIA—SUMMIT MEETING IN WASHINGTON—IMPOSITION OF EMBARGO ON MILITARY EQUIPMENT AND OIL SUPPLY—POSITION OF THE PRIME MINISTER

(Response to questions raised by Hon. Fernand Roberge and Hon. A. Raynell Andreychuk on April 27, 1999)

At their Summit meeting, NATO leaders stated that, “Allied governments are putting in place additional measures to tighten the constraints on the Belgrade regime. These include intensified implementation of economic sanctions, and an embargo on petroleum products on which we welcome the EU lead. We have directed our Defence ministers to determine ways that NATO can contribute to halting the delivery of war material including by launching maritime operations, taking into account the possible consequences on Montenegro.”

THE SENATE

RECEPTION FOR KING OF JORDAN

The Hon. the Speaker: As honourable senators are aware, Canada is honoured by the visit of His Majesty, the King of Jordan. There will be a reception this afternoon at 3:55 p.m. in Room 237, to which all honourable senators and members of the House of Commons are invited.

A number of calls have come to my office regarding the possibility of spouses and staff attending. Regrettably, there simply will not be enough room. As well, this is a parliamentary matter.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, now that we have now received all of the reports of the various committees, could we proceed with the referral of those reports for consideration later this day? That could not take place at this moment because we have other government business to deal with, but we could refer

them for consideration later this day or to whenever the Speaker wishes to refer them.

The Hon. the Speaker: Is it agreeable, honourable senators, to revert to Reports of Committees on the Order Paper?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, I would point out that on the report presented by the Honourable Senator Milne, its adoption was not moved or seconded. I believe that the adoption of the others was moved and seconded.

COASTAL FISHERIES PROTECTION ACT CANADA SHIPPING ACT

BILL TO AMEND—REPORT OF COMMITTEE

On the Order:

Consideration of the fourth report of the Standing Senate Committee on Fisheries, Bill C-27, to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements, presented without amendment, but with an observation, earlier this day.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I appreciate that now we have the reports in our hands, we are better informed as to exactly what we are being asked to do.

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

STUDY OF TABLED DOCUMENT—REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

On the Order:

Consideration of the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs, to which was referred the document entitled “Proposals to correct certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada, to deal with other matters of a non-controversial and uncomplicated nature therein and to repeal certain provisions thereof that are expired or lapsed or otherwise ceased to have effect” presented earlier this day.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, the Speaker indicated that the adoption of this report had not been moved, so let us move it again, just to be on the safe side.

Hon. Lorna Milne: I move the adoption of this report.

Hon. Wilfred P. Moore (Acting Speaker): Honourable senators, when shall this report be taken into consideration?

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 58(1)(b), report placed on the Orders of the Day for consideration later this day.

SCRUTINY OF REGULATIONS

BUDGET REPORT OF JOINT COMMITTEE

On the Order:

Consideration of the fifth (A) report of the Standing Joint Committee for the Scrutiny of Regulations requesting approval of funds for 1999-2000, presented earlier this day.

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Carstairs, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

FIRST NATIONS LAND MANAGEMENT BILL

REPORT OF COMMITTEE

On the Order:

Consideration of the ninth report of the Standing Senate Committee on Aboriginal Peoples, Bill C-49, providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management, presented earlier this day.

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Carstairs, with leave of the Senate and notwithstanding rule 58(1)(b), report placed on the Orders of the Day for consideration later this day.

ORDERS OF THE DAY

INCOME TAX AMENDMENTS BILL, 1998

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Callbeck, seconded by the Honourable Senator Cook, for the second reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

Hon. David Tkachuk: Honourable senators, yesterday Senator Bolduc gave an excellent speech on both Bill C-71 and Bill C-72. He presented it so well that I will keep more to the specifics rather than to general comments on the budgets.

I liked one of Senator Bolduc's comments yesterday, and so I will begin my speech today by quoting from his speech. He referred to Minister Martin when he said:

He is doing the Liberal two-step: tax silently and spend noisily, so that Canadians are stuck with big, unlimited government. He is stealing our freedom, never mind about the productivity declines, and all those jobs.

It could not have been said better.

Honourable senators, this bill is from the budget of 1998, some 15 months ago, and many of the measures in this bill are effective for the entire 1998 tax year for which the filing deadline was April 30. It is now mid-week, two weeks after the deadline has passed, and once again we are filing our returns on the assumption that all the changes announced more than a year ago would some day become law.

The government is so slow in bringing its tax measures before Parliament that some of the measures in Bill C-72 were superseded by changes in the 1999 budget before the bill even had first reading in the other place. The primary examples of these are the further changes to the personal credit and surtax announced in the budget.

• (1520)

Since Bill C-72 was not introduced in the other place until after the 1999 budget, I have to wonder why the government failed to incorporate budget changes in this bill. In spite of taking its time to bring legislation before the Senate, the government is telling us that it is urgent that the legislation be passed. This time, the gun to our head is the promise of tax refunds arising from changes in the way the minimum tax applies to RRSP and pension rollovers, and these changes are being applied retroactively to 1994. We dare not defeat this bill or hold it up. The government tells us that just as soon as this bill is passed, it will issue tax refunds retroactive to 1994.

The good news about this bill is that it does have some tax reductions. The bad news is that the government is not providing meaningful and broad-based tax relief. The bill increases personal basic exemptions for low- and modest-income Canadians to roughly what is needed to offset the last five years of inflation. Even after this bill passes, even after a year from now when the changes from the 1999 budget pass, we will still be taxing Canadians with incomes as low as \$7,131. That is one of the lowest levels at which income tax becomes taxable in the Western World.

Bill C-72 removes the 3 per cent surtax for low- and modest-income Canadians. With the budget in balance, there is no excuse now for any surtax.

These measures will reduce taxes for many Canadians, but not by much. For the most part, the tax relief in this bill is selective. If you are a part-time student, you get a tax break. If you are paying \$5,000 per child in daycare, you get a tax break. If you are taking care of low-income, elderly parents in your home, you get a tax break. If you are self-employed, you get a tax break on your health care premiums. If you are an emergency volunteer, you get a tax break. The government is using taxes more as social engineering than solid economic policy.

If you are struggling to get by with a pay cheque that has stood still while your bills have risen, the government seems to be saying that you must be content with a few dollars of relief from surtax and personal amount changes. The heart of our nation, the middle class, is still burdened with extremely high taxation.

Selective tax cuts, though I do not like them, are better than no tax cuts at all. They will not help as much as substantive and meaningful cuts.

Honourable senators, as an example, the ceiling for the labour-sponsored venture capital funds rises to \$5,000 from \$3,500, even though some of these funds have been unable to place all the money that has been entrusted to them, and that has been a criticism of the financial community. I might ask, why are we limiting this tax credit just to funds sponsored by labour? I know it was an initiative of the previous government, and perhaps it was needed at the time. However, I think we need to have another look at it.

If we need more venture capital, why not have a tax regime that gives an incentive to people to invest in companies and new businesses and research? The labour venture capital fund is obtaining investment by tax credits rather than by smart investment decisions.

I will give you an example. I do not know how many of you have invested in the labour venture capital fund, but it actually is a good investment, albeit not from the point of view that the fund is making money or raises its asset level. It has been basically the same for the last five years. It is a good investment because when you put \$1,000 in, if you are in a 45 or 50 per cent tax bracket,

which is anything over \$40,000 or \$35,000 a year, you get 45 to 50 per cent off as an automatic tax deduction. On the \$1,000, you pick up \$500 or \$450. As well, certain provinces give you a tax credit. Saskatchewan gives you 35 per cent, and that was done by a previous NDP government. Ontario gives you 30 per cent, and that was done by a previous NDP government. Alberta gives you no additional tax credit along with the federal tax credit, and B.C. gives you 15 per cent. The three NDP governments followed the federal government's 15 per cent tax credit and sweetened it by 20, 15 and 15, respectively. That means that in my province you get an extra 35 per cent tax credit. On \$1,000, you get \$350 in tax credit, federal and provincial, and you get a \$500 tax deduction. That \$1,000 only costs you \$150. If you keep it for two years, you can sell it, which gives you a return of 17.5 per cent. However, it does not do anything for anyone. It does not accomplish the goals of venture capital. All it does is accumulate cash in a venture capital fund sponsored by labour, which does not make any money.

Several weeks ago, the Minister of Industry said that the taxes in this country were too high. He was promptly put in his place by the Prime Minister. He had dared to suggest that our tax rates should be brought in line with those of the United States.

Honourable senators, the government leader last week boasted that in its two most recent budgets, the government had announced tax breaks totalling \$16 billion over three years, about the same amount as what I call the new surtax on Canadians. While they took off the 3 per cent surtax, and they bragged about it in the 1999 budget on low- and modest-income Canadians, they have continued to overtax through the EI premiums paid by working-class Canadians and by small business. This is equivalent to at least \$5 billion a year over the amount that is needed. Therefore, the new surtax imposed on Canadians is assessed through the EI premiums and it takes back the \$16 billion that they claim they are giving us in tax cuts.

The government is paying for the tax cuts in this bill and in the last budget by overcharging Canadians for Employment Insurance premiums. That, honourable senators, is an unconscionable act and a burden on working-class Canadians and small companies that is unnecessary.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Callbeck, seconded by the Honourable Senator Cook, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to Standing Senate Committee on Banking, Trade and Commerce.

FIRST NATIONS LAND MANAGEMENT BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Aboriginal Peoples, presented earlier this day.

Hon. Charlie Watt moved the adoption of the report.

He said: Honourable senators, the committee believes that Bill C-49 is an important piece of legislation that meets the important objectives of First Nations participating in the land management initiative it establishes. However, after extensive hearings, the committee acknowledged that the bill is not —

Honourable senators, you must bear with me because I lose my sight every now and then.

• (1530)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, Senator Watt has very severe sunburned eyes and is having trouble reading. Might I read his remarks for him?

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Carstairs: The most frequent criticism of Bill C-49 before the committee concerned First Nations' expropriation powers under clause 28. While the committee heard conflicting views on this matter, witnesses raised a number of concerns. Most of these concerns centred on two issues. The first was that the scope of "other First Nation purposes" justifying expropriation is unduly vague. The second was that the bill offers no assurance that the rules of the federal Expropriation Act would apply to determinations of fair compensation following expropriation.

Several witnesses urged the committee to amend clause 28 of Bill C-49. They asked for the scope of First Nations' expropriation authority to be clarified, in order to provide some comfort that First Nations' expropriation powers would not be exercised for overly broad purposes. They also asked for greater clarity with respect to the rules applicable to compensation.

In her appearance before the committee yesterday, the Minister of Indian Affairs and Northern Development acknowledged that questions had been raised about whether the bill was clear enough in these areas. She acknowledged the importance of making our intentions clear and invited the committee to address these aspects of the bill. These amendments are intended to respond to that invitation and to add greater clarity to the piece of legislation.

Some Hon. Senators: Hear, hear!

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Thelma J. Chalifoux: With leave, now, honourable senators.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Chalifoux: Honourable senators, it gives me great pleasure today to move third reading and speak once again on Bill C-49, a bill that will be the beginning of creating a new era of First Nations governance. This bill has been the subject of much debate and consultation. In our deliberations, the Standing Senate Committee on Aboriginal Peoples has unanimously approved two amendments that clarify the intent of the expropriation provisions.

The minister is also in agreement with these provisions. As well, Kerry-Lynne Findlay, a spokesman for the Musqueam leaseholders, was quoted in *The Vancouver Sun*, to have said, "I am very pleased with the amendments. I think it is a very, very necessary step forward."

Bill C-49 ratifies the Framework Agreement that will provide 14 First Nations with authority to manage their lands at the community level and to pass laws for the development, conservation, protection, management, use and possession of their lands.

The Framework Agreement and this legislation gives these 14 communities the option of managing their reserve lands and resources. This means they can undertake projects without having to turn for approval to the Minister of Indian Affairs and Northern Development. They will have the flexibility to move quickly when economic opportunities arise or when potential partners approach them. The First Nations can get on with the task of creating jobs and economic growth in their communities. Decisions can be made at the local level.

Honourable senators, this Framework Agreement supports Canada's efforts to increase self-sufficiency in First Nations communities. We are working, in partnership with aboriginal people, to ensure that they have the skills and expertise to shape their own solutions. This bill is a major component of that effort and the broader goals that the government outlined just over a year ago with the launch of "Gathering Strength—Canada's Aboriginal Action Plan."

Under "Gathering Strength," Canada's priorities are to renew partnerships with aboriginal people, strengthen government systems, develop a new fiscal relationship, and support strong communities, peoples and economies. This Framework Agreement and this bill are steps towards supporting each of these objectives.

The minister has stated that we are entering into a new era. Rather than the paternalistic attitudes of the past, Bill C-49 is creating a partnership that will give these 14 First Nations the opportunity to govern their lands in partnership with Canada. This bill will promote and strengthen the government-to-government relationship for all partners.

Bill C-49 also establishes new partnerships among the 14 First Nations themselves. The communities have agreed that, once the Framework Agreement is ratified, they will work together in a spirit of cooperation. They will coordinate their activities through a land advisory board, to help them develop land codes, negotiate individual agreements, model laws, and monitor the process. This is a tool that will help them build partnerships among themselves and build capacity in their communities. This is the road to self-reliance and the road to self-government.

The Framework Agreement and the legislation spell out a high degree of accountability for these First Nations, both financially and locally.

Under Bill C-49, the decisions of the First Nations must be voted on by the community. This means that all members of the First Nations who are 18 years or older, whether resident on or off-reserve, will be eligible to vote in the community approval process.

For the first time, the elected chief and council will be accountable to their membership. Previously, the elected officials were accountable only to Indian Affairs for the actions and management of the First Nations reserves. In this instance, for the decisions of the elected officials to be valid, those decisions would have to be approved by a majority of the total eligible voters. In that way, First Nations can be assured that their memberships are fully apprised of all aspects of the process and subsequent administration of the lands and moneys. In other words, this is an accountability process built to high standards.

This bill is a win-win situation for all parties. The First Nations win because they can include their land and their resources in decisions that shape their future. The First Nations and their neighbouring communities also win because increased economic development on First Nations land will mean a healthier economy for the region. They will be able to deal directly with the First Nation on business matters, instead of having to go through the Department of Indian Affairs.

The federal government wins from no longer having to administer specific sections of the Indian Act for these 14 First Nations, thereby reducing its involvement in the day-to-day management decisions and activities of those First Nations.

Individual third parties win by being able to deal directly with the First Nations and by the establishment of alternative dispute resolution mechanisms.

During our deliberations, we addressed a number of contentious issues, one of which was expropriation. I would remind honourable senators that there are already expropriation powers under the Indian Act. On request of First Nations, the minister can already exercise expropriation powers, for the general welfare of the First Nation, under section 18(2) of the Indian Act.

What we are seeking to do with this bill is to replace the powers under the Indian Act to ensure that the signatory First Nations have the tools they need to manage their land. The power of expropriation of the signatory First Nations is similar to the expropriation powers afforded to federal and provincial governments and public and private organizations, such as municipalities, school boards, universities, and hospitals.

It is important to recognize that this bill does not allow for arbitrary expropriation. First Nations must justify any expropriation, just as any other expropriating entity must. The courts and alternative dispute resolution mechanisms will be available to ensure that no abuse takes place, just as they are in respect of other expropriating powers.

The bill also requires that First Nations provide fair compensation following the rules set out in the federal Expropriation Act. That act provides for compensation to be based on fair market value, and contains detailed rules for the determination of compensation. The rules and procedures to be developed by the First Nations will have to follow the principle of fundamental justice.

Alternative dispute resolution mechanisms will be available to those persons who wish to challenge the rationale for the First Nations expropriation or for the amount of compensation. The court will also be available for the same kind of challenge.

• (1540)

I understand that specific concerns have been raised out of whether these areas have been treated with sufficient clarity. The bigger and more important social issue upon which we have deliberated is the matter of the rights of aboriginal women as it relates to matrimonial property. This is a significant issue, one that we must address. There is a legislative gap regarding matrimonial real property rights upon marital breakdown on reserve. The Indian Act does not provide guidance, in cases of marital breakdown, on the use, occupation and possession of the matrimonial home, or on the division of the interests in land on reserves. In other words, the Indian Act is totally silent on those issues.

Clearly, this is an issue that needs resolution. This legislation is a significant step forward, as it would enable the 14 signatory First Nations to resolve this matter. The First Nation members are required to vote on a community process for the development of rules and procedures for matrimonial property. This process

must result in rules and procedures to be adopted within, at a maximum, 12 months from the date the land code takes effect. An arbitration process has been set up in the Framework Agreement to ensure that that delay will be respected. The rules and procedures cannot discriminate on the basis of gender.

However, there is a larger issue at stake here — one that goes beyond the 14 First Nations that have ratified the Framework Agreement. This issue of matrimonial real property upon marital breakdown affects all First Nations that remain administered under the Indian Act. We must look beyond the proposed First Nations Land Management Act and determine what can be done to resolve the current vacuum in the Indian Act concerning division of matrimonial real property.

Last June, the minister announced that an independent fact-finder process would be established to examine how best to address this issue. The minister stated that matrimonial property is a significant issue, extending beyond the First Nations addressed in this bill. It needs to be treated more thoroughly, as do issues facing aboriginal women generally. We need to address the concerns that have been raised by witnesses whose testimony reached beyond Bill C-49. We need to assess, as well, the work of the Special Joint Committee on Child Custody and Access and our special study on aboriginal self-government. There is much work to be done. The minister has signified her interest in working with our committee to examine these serious issues.

In conclusion, I should like to reiterate that this is a very important piece of legislation. It is the first step toward a more harmonious partnership between First Nations, all levels of government, and all Canadians. I hope that, in returning this bill to the other place, they will recognize the importance of the legislation and return it to the Senate expeditiously for passage and Royal Assent.

I thank you all for your support of Bill C-49.

Hon. David Tkachuk: Honourable senators, Bill C-49 was an interesting process. Therefore, in the absence of Senator Ghitter, I should like to make a few comments.

The Minister of Indian Affairs was with us yesterday. During that time, I tried to ask a question, but we ran out of time because she had to leave. Therefore, I thought I could make my comments here; hopefully she will read them in Hansard.

The bill showed us something that has been an old saw for me — which is precisely why I want to bring it up.

We need a parliamentary debate on this question of self-government. A series of interesting issues continue to arise. The reason for my private member's bill, S-14, was to try to stimulate debate on that subject — that is, if I can ever get it out of committee stage, where we are having an eternal debate. It is

an attempt that has been four years long, yet it is a serious attempt.

I cannot believe that I supported a Liberal amendment. Nevertheless, I supported Senator Austin. It goes to prove that, if we discuss and debate the issues, there is room for compromise and some kind of understanding of where we are going. The difficulty is in marrying the constitutional lines of aboriginal self-government and the reality of self-government.

In 1864 and 1867, the founders of our country were wise enough to include in their discussions not only the people who were in charge, but also the opposition parties in the colonies. They knew that that was the way to get the process started.

If anyone in this room believes that we are not setting up a third order of good government in this country, you have not read what is happening. This is another order of government that we are setting up. We will see it later on, in the fall.

We are experiencing problems in discussing this third order of government, because it is all done in secret. There has been a 10-year program of study by the bureaucrats, by the minister, and by the chiefs. It is then flung on Parliament, and citizens become angry. If we are not open, there will be racial tension. I do not blame the bureaucracy. There must be general direction from Parliament as well as from the government. We must develop the debate.

The Aboriginal Peoples Committee is, at this time, studying aboriginal self-government. That is a good forum in which to debate the issue. We should urge the minister to discuss it in the other place.

We heard testimony about what happened in Kamloops. A union organization unionized a band office in Kamloops. The result of that was that the union was banned. The collection of union dues was also banned. The minister wrote a letter to Kamloops, stating, "You cannot do this." Do you know what the chief said? He said, "Yes, we can."

We are always told that the federal laws of application apply. However, there is no evidence of that. That is what happened in this bill. We are always saying that it is all right, but that is not the way it works when it happens. Many important and fundamental issues are outstanding. For example, how do Charter rights apply? We do not know the answer to that.

In the Nisga'a bill, which will soon be coming to us, 14 areas of governance supersede federal powers. We should not get into a discussion about self-government. We must talk about our country.

The Human Rights Commission does not apply because of what is stated in the Indian Act. If it is in the Indian Act it is all right, but we should talk about it before we grant self-government.

Matrimonial rights and property rights are serious issues. The aboriginal people believe in collective rights. As a Conservative, I am a strong believer in community. However, I am not a collectivist. There is a big difference in granting rights to the collectivity. I have a significant problem with that. I am a firm believer in human rights, individual rights, and property rights. Those rights form the engine that runs the economic system in this country and the engine to create wealth. We have not discussed those issues, yet we continue to receive these bills. It will blow up in our face.

The issues that are before us should have been resolved before Bill C-49 came to the House of Commons. We should have been talking about the bill, not about leases. However, that is exactly what we were doing.

The Meech Lake Accord was only to discuss "distinct society."

• (1550)

It is not that big a deal. However, we had a long process. We had a meeting of all the first ministers and the Prime Minister to discuss a constitutional problem.

How, then is it happening that we are developing self-government on reserves with federal law? That is what will happen with the self-government bills, and we have no idea how this will work. We are setting up a third order of government. Perhaps that is what we want to do, but I feel we should be able to discuss it reasonably and with passion from both sides.

Bill C-49 is an enabling bill. That is a good thing. I like enabling bills; that is why I like Bill S-14. It is one bill. You can change one bill, you can deal with one bill. You cannot have 100 bills, which is what we will end up having: one for Sechelt, one for Yukon, one for here, one for there, and this will go on forever. That will not be good for any of us.

I support Bill C-49 in its present form. I am glad that we were able to make the amendments to clarify it. The bill did not go as far as I or Senator Ghitter wanted it to go, but we are willing to compromise, and we are democrats. We understood the majority, we fell into line, and we got what we could.

This process was a great learning experience for all of us, honourable senators. Everyone needs to have that same kind of learning experience that we had. The people in the other place definitely need this kind of learning experience. What will be happening in the near future will be very serious for our country, and I hope we do not lose on the whole issue of self-government because we are not capable of giving general direction as to how these bills will be brought before us, and how we will start the third order of government, which is what is happening to us right now.

Some Hon. Senators: Hear, hear!

Hon. Gerry St. Germain: Honourable senators, I will be very brief. As a British Columbian representing a region of that great province, I believe that if there was an area that was impacted by

this particular legislation more than others, British Columbia was that area.

I wish to start off by thanking the chairman of the committee, who recognized that those of us from British Columbia were impacted, in that he allowed us the time for questioning, and he made certain that our witnesses, who had travelled a great distance, were given the opportunity to express their views. The chairman made certain that we were all given the opportunity to deal with what we believed we needed to deal with in this important piece of legislation.

Some Hon. Senators: Hear, hear!

Senator St. Germain: In dealing with legislation such as Bill C-49, it is important to recognize that all of the country is saying that we should do something for our native people. Yet when we come to do something, everyone is apprehensive about taking that first step.

This is one of the important steps. I believe someone once said that every major journey begins with a single step. This was an important step in allowing our native peoples to assert themselves and to deal with their own lands with dignity, pride and honour. Amongst our aboriginal peoples, those virtues have been destroyed by many of the actions that have been taken in the past, whether it be residential schools or what have you. In that spirit, there is no piece of legislation that goes through any place that is absolutely perfect.

I should like to thank the members who worked with us on the committee in trying to arrive at a resolution. As Senator Tkachuk pointed out, not everyone was totally happy, but we arrived, and we were working for certainty.

Senator Chalifoux said "clarity;" I believe the word is actually "certainty" that people were seeking, the people who will be affected, the third parties on the various Indian lands in our province.

The question of the expropriation was logically the most contentious aspect. I understand that there are people who are still apprehensive. That apprehension I can understand. Only time will tell, because there is risk in everything we do. There is no reward without risk. I hope this is a reward for our aboriginal peoples.

I worked with Senator Austin and Senator Perrault, the chairman, Senator Watt, Senator Andreychuk and all the members of the committee. Given what we had to work with, we have come up with as close to a deal as we can live with.

I wish to issue a word of caution, however. On these deals, the most important thing is that if the uncertainty has not been resolved, it would be detrimental to our aboriginal peoples. The most cowardly dollars in the world are investment dollars. If the dollars do not flow, the economic benefits that this piece of legislation is designed to generate will not be there, and it will go from a winning situation to a losing situation. I would urge everyone, as we work together, to try and exercise the utmost caution and reason as we go forward with this legislation.

I will finish on this thought: It was Chief Justice Lamer of the Supreme Court of Canada who said:

Let's face it, we are all here to stay.

Let us remember that statement. Aboriginals, those of us who are Métis, or whatever we are, all working together, we are all here to stay, and we must make this country, this society, work.

Hon. Senators: Hear, hear!

Hon. Jack Austin: Honourable senators, I will not keep you long. I am as eager to see this bill pass on third reading as any senator in the chamber. I should like, however, to respond with appreciation to the comments that have been made by Senator Tkachuk and Senator St. Germain, but in the larger context of Senator St. Germain's remarks to the chairman of the committee, and to Senator Chalifoux and others on both sides.

All of us recognize in the Standing Senate Committee on Aboriginal Peoples what a serious issue we deal with when we deal with the relationship between the aboriginal community and the rest of Canadian society. We have major issues in shaping Canada.

The Senate committee in this case, under the chairmanship of Senator Watt, has dealt with those issues with a real maturity which deserves recognition. The evidence that was before us under Bill C-49 made clear that there were concerns of a substantial kind with respect to the meaning of parts of section 28. The stakeholders, including aboriginal leaders, the minister and her department, and senators on both sides of the committee, worked together very effectively to resolve these questions. Whereas Senator Tkachuk says that this is my amendment, and it is difficult for him to accept a Liberal amendment, it actually was a joint amendment. I moved it, but Senator St. Germain seconded it, and I wish to thank Senator St. Germain for working with me.

The same is true of all of the senators, including, on the Conservative side, Senator Ghitter, Senator Andreychuk the deputy chairman of the committee, Senator Johnson, and my colleague Senator Perrault and also Senator Fitzpatrick from British Columbia.

• (1600)

As indicated by Senator St. Germain, this matter is of real impact in British Columbia. I wish to emphasize the point that has been made this afternoon: A very unfortunate combination of political images developed in British Columbia. There was Bill C-49, there was the Musqueam leaseholder problem, which is unresolved and on which we will be working over the summer, and then the Nisga'a treaty. A great many British Columbians are "worst case" worriers. Whether their worst case worries were, at the end of the road, real or not, the fact that they believed these things would happen in British Columbia made them real. As far as I am concerned, there was reality in the wording, and that is why I became involved in dealing with the issue in British Columbia.

Senator Tkachuk and Senator St. Germain have made the point that the Senate has an important role to play in ameliorating relations between the aboriginal and the non-aboriginal communities in Canada. We are serving the function for which the Senate was created when we take a last look at legislation and endeavour to respond to real concerns that have emerged, in this case, mainly since the bill passed the other place. That is our role. When it comes to issues between Canadians of non-aboriginal and aboriginal descent, we have a very important role to play in the future.

I thank honourable senators on both sides. Truly, in the Aboriginal Peoples Committee, we show how effective the Senate can be.

Hon. Shirley Maheu (Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill, as amended, read third time and passed.

[*Translation*]

COASTAL FISHERIES PROTECTION ACT CANADA SHIPPING ACT

BILL TO AMEND—THIRD READING

Hon. Fernand Robichaud moved the third reading of Bill C-27, to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks and other international fisheries treaties or arrangements.

Motion agreed to and bill read third time and passed.

[*English*]

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

STUDY OF TABLED DOCUMENT—CONSIDERATION OF
REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS
COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs, to which was referred the document entitled "Proposals to correct certain anomalies, inconsistencies, archaisms and errors in the Statutes of Canada, to deal with other matters of a non-controversial and uncomplicated nature therein and to repeal certain provisions thereof that are expired or lapsed or otherwise ceased to have effect," presented earlier this day.

Hon. Sharon Carstairs (Deputy Leader of the Government): I move the adoption of the report.

Hon. John Lynch-Staunton (Leader of the Opposition): This report is not just an ordinary report. It is a report on an omnibus bill which is intended to make so-called technical corrections to acts already passed by the Parliament of Canada. If honourable senators have a chance to read the report, they will see that it goes beyond that. Since there is no urgency to it, I should like to adjourn the debate.

On motion of Senator Lynch-Staunton, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(Honourable Senator Carstairs)

Hon. Mary Alice Butts: Honourable senators, although I was not in this neighbourhood when the Senate committee released its report on euthanasia and assisted suicide in 1995, I have used the document in several circumstances since its release. I am happy to have this opportunity to thank those who worked so diligently to provide us with such a valuable treatise.

I understand Bill S-29 to be another building block which follows from the resolutions of the Senate report. The report considered the legal, social and ethical issues related to problems such as the withholding of treatment and the withdrawal of life supports. Now the Senate needs to provide for the report's recommendations.

Thus, Bill S-29 calls for the amendment of section 45 of the Criminal Code. This bill provides, first, for protection of caregivers who act according to instructions of patients or their designated persons, and, second, for the establishment of guidelines in the area of life-sustaining treatment and pain relief. Thus, the bill places the onus where it belongs — on the lawmakers of the country, rather than on the caregivers or the courts.

Specifically, Bill S-29 provides for amendments that will arrange for the medical procedures that constitute life-sustaining treatment, a determination of dose limits of treatment, and the circumstances in which it is illegal to exceed those dose limits to alleviate pain and physical distress.

Further, it will legislate that the federal Minister of Health, working with his or her provincial counterparts, will provide the standards and parameters for care for the terminally ill.

I want to take a few minutes to explain why I believe Bill S-29 is essential if we are to fulfil our duty as legislators.

First, all recent studies show that the incidents of euthanasia are increasing in our society, with the law as it is today. A study

published in the *New England Journal of Medicine* found that 36 per cent of doctors would be willing to write lethal prescriptions if doing so were legal, while 11 per cent were willing to do so against the law.

The survey concluded that laws protecting against euthanasia prevent two-thirds of doctors willing to kill their patients from doing so and they keep down the numbers of killings even by doctors willing to break the law. It is essential that the law provide another option, so that caregivers are not faced with this dilemma.

Second, laws forbidding euthanasia maintain the moral integrity of the medical profession. They maintain the distinction between healer and killer. The distinction between killing and allowing to die is embedded in our 2,500-year-old moral and medical traditions. When this distinction becomes blurred, euthanasia becomes a solution to some of society's problems.

Third, in a speech made recently at the National Press Club, a doctor who is a director of oncology at the University of Montreal stated that the outcry for euthanasia is based primarily on a mistaken fear that doctors will keep people alive beyond their time or will be unable to control a patient's pain. This doctor reminded his audience that the pain of almost all dying patients can be controlled. As he said, "One in a million has pain that cannot be relieved." Thus, the modern call for euthanasia is unnecessary.

Further, the oncologist said that euthanasia deprives patients and families of many important moments. He called for more education of both doctors and the public regarding the availability of pain control.

• (1610)

He maintained that patients often confuse physical suffering with spiritual suffering, and that spiritual suffering is an integral part of the suffering of a cancer patient who has been told that he or she has only months to live. He called for help from psycho-social pastoral teams to help patients see the true meaning of life and of death. Above all, they must be told that their acquired wisdom is a value in society and not a burden. He maintains that dying patients want to live as long as they can. In his 33 years of practice, he has treated thousands of dying patients, and only a handful asked him to help them die.

Finally, honourable senators, I wish to speak of one dilemma with which I am more familiar, that of Dr. Nancy Morrison of Halifax. The ordeal which Dr. Morrison experienced must surely be a deterrent to other doctors who might consider killing a patient.

Paul Mills was administered a drug that is used to execute criminals in certain states of the United States. On the day prior to his death, patient Mills had been taken off antibiotics and the feeding tube was disconnected. On the day of his death, he was taken off life support and administered the last rites of his church.

An attending nurse in the ICU stated that this death was the worst death she had ever witnessed. In her words, "Never have I seen conventional treatments so ineffective."

Dr. Morrison did not go through a murder trial because the Crown could not produce the forensic evidence to prove a fatal dose of the drug had been administered.

Honourable senators, Dr. Morrison need not have faced that dilemma. What was missing in the case was a good palliative care system with standards of legal treatment.

A group of palliative care doctors published a statement about the case which said, in part:

It is an unfortunate reality that what is known about good pain management and palliative care is not widely implemented or accessible.

Every Canadian has the right to adequate pain management at the end of life. We, as legislators, can ensure that they have it. The medical experts tell us that with current medical treatment substantial comfort can be given to the terminally ill. What is missing is a law that will protect both the sufferer and the caregiver.

There exists options to alleviate human suffering other than outright killing. If we do not protect life at its end, we will destroy a key foundation of Canadian society because respect for human life and the need to protect the most vulnerable are foundation principles which support all other rights in this society.

On motion of Senator Carstairs, debate adjourned.

ROYAL ASSENT BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-26, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(Honourable Senator Poulin)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise seeking information. Will this bill go to committee or will the government let it languish as it has for the last month or so?

Hon. Sharon Carstairs (Deputy Leader of the Government): The order stands in the name of Senator Poulin. At the last meeting of the Liberal caucus it was determined that a

more thorough debate of this legislation within caucus was desired.

Senator Lynch-Staunton: Since, from what we have seen in the last month, most of your caucus debates are held in the Senate, could we perhaps continue that practice?

Order stands.

INTERNATIONAL SEARCH OR SEIZURE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-24, to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada.—(Honourable Senator Grafstein)

Hon. Jerahmiel S. Grafstein: Honourable senators, on March 9, 1999, Senator Beaudoin introduced a private member's bill, S-24. The objective of the bill, we were told, is to improve the protection of the right of privacy in Canada. This is a commendable objective. All senators are interested in the right to privacy. The Supreme Court of Canada, in the *O'Donaghue* case, affirmed, as a judicial extension of the Charter-like rights, the right to privacy.

Bill S-24 would do so, however, only for those who keep their business and banking records abroad. The practical effect would be to require police agencies to comply with an additional procedure to an already lengthy process for obtaining assistance abroad. Bill S-24 would further delay investigations. It would protect anyone with records abroad, whether in Canada or not, who is the subject of a Canadian police investigation. It would add a protection beyond the case law and the Charter. For example, a drug dealer in a foreign country who uses bank and corporate secrecy jurisdictions to hide activities from law enforcement officers, who has never been to Canada but is being investigated for offences in Canada, would benefit from the additional procedural requirements and delay.

Innovations in technology would make it easier each year for criminals to carry out criminal plans which take advantage of foreign laws. International assistance is an essential means to combat this problem. An integral part of such assistance is the ability of Canadian officials to quickly locate, secure and obtain documentary and other evidence which is to be found in foreign locations.

Such a measure appears, to me at least, to be unnecessary and inappropriate in the modern transnational crime context. The result of Bill S-24 would be to hamper the efforts of Canadian authorities to fight effectively the ever-growing problem of transnational crime.

If Senator Beaudoin's object is to renovate the law to protect the privacy of Canadians who do not maintain banking or business records abroad, as might have been the case in the Airbus affair, that object commends itself to me. This does not appear to be either the aspiration or the ambit of this bill. For all of the above, I cannot agree to support Bill S-24.

Honourable senators, as an aside, it seems that the Honourable Senator Beaudoin would welcome the principle of extra-territorial protection in this measure, but not in others. Consistency remains, as always, the ogre of smaller minds.

Hon. Pierre Claude Nolin: Honourable senators, I should like to pose a question to Senator Grafstein. Bill S-24 deals with a Charter right. What is the opinion of Senator Grafstein on the extent of Charter rights? Is it his view that Canadians are entitled to those rights only when they are in Canada, or wherever they are in the world? Do those rights extend to property in Canada only, or to property wherever it is in the world?

Senator Grafstein: Honourable senators, the way the question is worded raises a difficulty. I would rather respond with regard to the limitations of this bill. As I read it, this bill inhibits Canadian authorities from investigating bank or business records of Canadians who seek to do their business overseas. To my mind, this is an additional extension of the right of privacy that I think goes beyond the Charter and beyond the case law. It has the counter-productive objective of assisting criminals who are prepared to use Charter-like protections to protect themselves against the reach, beyond the Canadian border, of investigations in Canada.

• (1620)

This is my reading of the bill. If the objective of the bill is different than that, I remain open-minded. However, as I read this bill, it would place additional tools in the hands of international criminals to prevent using the theory of the right of privacy to protect them against a proper and appropriate criminal investigation. I cannot believe the Senate would agree to that.

Hon. Gérald-A. Beaudoin: My honourable colleague said that the right to privacy is involved, and I could not agree more. However, suppose the request for a search and seizure were made in this country? Do you not agree that under the present law a Canadian citizen has the right to oblige the police to seek a warrant? If so, what differs when the same citizen, in Canada, is subject to search and seizure, but the execution is taking place in another country? Is it not the same Canadian, the same person, under the Charter of Rights, which applies everywhere in this country? Is that person not subject to the same rights, as if the execution of the warrant were inside Canada?

Senator Grafstein: Honourable senators, the drafting of the bill goes beyond what the honourable senator intends. I see the drafting as being much larger than that. You do not have to be a Canadian citizen. You can be anywhere in the world and still seek that protection for a writ issued in Canada.

Perhaps the honourable senator, when he deals with this further, might enlighten me, but that is the way I read his bill as presently drafted.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I think Senator Grafstein is misreading the bill. It is not a question of protecting criminal elements. Bill S-24 is designed to protect innocent Canadians in respect of a search or seizure outside Canada, just as they are protected by the Charter in their own country. When a police force wants to engage in a search of assets, they must go before a court to justify that search and to obtain a warrant. The court will decide whether the warrant is justified and, if so, will issue it.

A Canadian may have assets abroad. Just because an individual has a bank account in Vermont or France does not mean he or she is a criminal. The Government of Canada may want to search the account for a number of reasons. Bill S-24 states that a Canadian who has assets abroad should have the same protection as if those assets were in Canada; that they should have the protection of the court, in the sense that the court will have to assess the evidence put before it to justify that search.

Honourable senators, this bill was inspired by the Airbus affair. The Government of Canada wrote the Swiss nearly four years ago. Shall we go over that letter again? No, we had better not. Suffice it to say that the letter made terrible accusations, which turned out to be false. The Government of Canada besmirched reputations. Had the government been forced to go before a court in Canada to obtain a warrant to search for assets abroad, it may have had to use a more discreet approach, a less flamboyant approach, and certainly a less politicized approach.

I would urge Senator Grafstein to read the minority judgments of the Supreme Court. I believe there were two dissenting opinions in the *Schreiber* case.

Again, this bill is not meant to protect or give an escape clause to criminal elements. It is meant to protect innocent Canadians from unwarranted searches, wherever their assets may be.

Senator Grafstein: One should not do this, but I will quote my own speech again.

If Senator Beaudoin's object is to renovate the law to protect the privacy of Canadians who do not maintain banking or business records abroad, as might have been the case in the Airbus affair, that object commends itself to me. This does not appear to be either the aspiration or the ambit of this bill.

In response to Senator Lynch-Staunton's previous question, let me again quote my speech, because I think it will succinctly answer what the honourable senator is asking. With respect to the ambit of the bill, I say:

For example, a drug dealer in a foreign country who uses bank and corporate secrecy jurisdictions to hide activities from law enforcement officers, who has never been to Canada but is being investigated for offences in Canada, would benefit from the additional procedural requirements and delay.

If, in fact, the import of the honourable senator's question is that this is not the intention of the bill, so be it. However, that is not the way I read the bill, as currently drafted.

Senator Lynch-Staunton: Would Senator Grafstein agree to having the bill sent to the Legal and Constitutional Affairs Committee, so we can hear from the appropriate witnesses, in an effort to have a better understanding of the bill? I think I understand the purpose of the bill. Senator Grafstein has a different understanding, and perhaps the wording needs to be tightened up.

Again, as I understand it, the bill is not designed to protect the drug dealer who has never lived in Canada and has assets abroad. Rather, the bill is designed to ensure that, when a Canadian citizen is subject to a search and seizure, he has the same protection of the Charter, no matter where the assets may be located.

Senator Grafstein: That is obviously for the Senate to decide.

Honourable senators, I have satisfied myself that the drafting, as presently presented, does not fulfil the objective to which I thought Senator Beaudoin was directing his objection, namely, that a Canadian who does not have business records abroad, unintentionally or intentionally, has his privacy challenged without some sort of renovation or right to protect himself. That, to my mind, was the way I read the heart of the Airbus affair, and I thought that it was unfair. That is not what this bill does.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move the adjournment of the debate.

Senator Lynch-Staunton: Honourable senators, these private bills seem to flounder and go on and on. Can we not move these bills on to the appropriate committees? They are not exactly partisan bills. They are non-governmental bills meant to improve existing legislation. Just because they come from one side rather than the other, does that mean that they must be dismissed with adjournment motions on a constant basis.

I have asked a question to the mover of the motion, and hopefully I will get an answer.

On motion of Senator Carstairs, debate adjourned, on division.

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Grimard, for the second reading of Bill S-27, to amend the Canada Elections Act (hours of polling at by-elections).—(Honourable Senator Carstairs)

Hon. John Lynch-Staunton (Leader of the Opposition): Once again, honourable senators, this bill is straightforward. I do not understand why it has been sitting on the Order Paper for nearly a month. All it says is that, during by-elections, the hours of voting will be from 8:00 a.m. to 8:00 p.m. There is nothing controversial about that. Why is it necessary to keep standing this order? Why can we not send the bill to committee and have it properly assessed? Why the delay by the government?

Bill S-27 is non-controversial. It is a worthwhile amendment to the Canada Elections Act. It is not saying anything partisan. To my mind, it improves an existing act.

Why is the government delaying and adjourning the debate on this matter? I would like an explanation from the other side, otherwise we will call a vote and force the issue.

Hon. Sharon Carstairs (Deputy Leader of the Government): My understanding, honourable senators, was that the Honourable Senator Graham would be in the chamber this afternoon to speak to this bill. That is the only explanation I can give to Senator Lynch-Staunton at this time.

Senator Lynch-Staunton: I accept that and thank the deputy leader.

Order Stands.

• (1630)

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE CONCLUDED

On the Order:

Resuming debate on the consideration of the seventeenth report (interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "A Blueprint for Change" (Volumes I, II and III), tabled in the Senate on December 2, 1998.—(Honourable Senator Stewart)

Hon. John B. Stewart: Honourable senators, on December 2, 1998, Senator Kirby presented the seventeenth report of the Standing Senate Committee on Banking, Trade and Commerce. That report is entitled "A Blueprint for Change." On motion of Senator Kirby, that report was placed on the Order Paper for consideration at the next sitting of the Senate. There it stood until Thursday, April 29.

When Senator Kirby presented the report, I made it known that some members of the committee, including myself, did not agree with the committee's recommendation on the subject of auto leasing by banks. As I said at that time, I was opposed to the recommendation that banks be allowed to lease automobiles and small trucks. I was not convinced that the Banking Committee understood fully the implications of this recommendation. In the months since last December, I have not changed my mind.

It is obvious, honourable senators, that I see this recommendation from my own viewpoint, the viewpoint of a senator from rural Nova Scotia. Perhaps some of my concerns apply equally in cities such as Halifax, Montreal and Toronto. Let me explain.

In Canada, we have a very safe banking system. However, one result of the measures we have taken over the years to achieve such a safe system is that we have very few banks. Those banks now aspire to be world-class players. However, this report of the Banking Committee raises a question: Do we want our banks, which are few in number, to expand into other forms of business within Canada? Surely there is an advantage in long-term commitment. Take the car business as an example.

I ask myself the following question: Is it likely that the banks would be as committed to the car business as are the local car dealers in small-town and rural Canada? Unlike the banks, these dealers are specialists. They are in a single line of business. It is a complex business, but it is still a single business. Because a dealer does business in one community, he or she has a lively interest in the prosperity of that place. If the consumers they serve do not flourish, it follows that they, the dealers, will not flourish.

I now move up to the level of the big banks and the big North American automobile companies — GM, Ford, and Chrysler. I ask myself: Is it likely that the big banks, with their extensive, worldwide financial operations and involvements, would be as committed to the car business as are the big automobile companies?

I hold no brief for either the banks or the automobile companies. However, the automobile companies must succeed in the automobile business, otherwise their profits will drop. They need a network of sound dealerships. In hard times, each big company has an obvious interest in helping its dealers survive, even if this means resorting to forms of vertical subsidization such as reducing the cost paid by the dealers for automobiles. The banks have no such direct interest, neither do they have the means for internal subsidization. They are in the banking business, not the automobile business.

I come now to my second argument. It relates to tied selling. A banker speaks: "Yes, we are ready to lend you the money to buy your new house. The interest rate will be, oh, about 9 per cent. Of course, if you did more business with us, we might be able to do better. Are you planning to lease a car soon?"

Wisely, the Banking Committee is opposed to tied selling. The committee believes strongly that competition is essential if we are to have a genuine free market economy. Indeed, in this very same report, the Banking Committee says that if Canada is to

have true competition in the financial sector, we will need more second-tier financial institutions; more institutions such as credit unions. To achieve that new, higher level of competition, the committee makes several recommendations. They can be found at paragraphs 147 through 163. Moreover, the committee warns against thinking that greater competition in the financial sector is likely to come soon.

Paragraph 164 reads:

The committee cautions, however, not to expect instantaneous competition to materialize from the set of new policies designed to encourage new entrants.

That being so, why give the banks yet another opportunity, a major opportunity, to engage in tied selling?

I now turn to the financial benefit that bank car leasing is alleged to produce for consumers. Look at paragraph 188 of the committee's report. That paragraph reads:

The only justification for changing the law to allow deposit-taking institutions to enter into lease-financing arrangements for automobiles would be if such a change in public policy would be of benefit to consumers.

The key question is obvious: Will allowing banks lease-financing for automobiles reduce the cost to the consumer?

To support their submission to the committee that lease-financing by banks would benefit the consumer, the banks cited a report by Vertex Consultants. The Vertex report compares the cost of car leasing in Canada with the cost in the United States where financial institutions are in the car-leasing business. The Vertex report says that the cost of a lease is higher in Canada by up to 2 per cent.

I assumed that that evidence was correct, but it led me to a conclusion different from that drawn by the banks. I interpreted that evidence as an argument for remodelling our financial system along American lines, that is, to increase competition within our financial sector by introducing new financial institutions, such as credit unions, on a wider basis. I interpreted that evidence as meaning that we should make no recommendation on allowing banks into the automobile leasing business until we had been successful in increasing competition within the financial sector. In any case, the Vertex report seems an impressive argument against bank mergers.

Now I am told by the Canadian Vehicle Manufacturers' Association that the Vertex report, the one on which the banks relied, is misleading. This is so, they say, because it focuses only on the price of the lease. It does not take into account three other factors essential to a correct analysis of the true cost to the consumer: It does not take into account the selling price of the vehicle. It does not take into account the duration of the lease. It does not take into account the residual value of the vehicle at the end of the lease contract. When these three factors are included, it is found, the vehicle manufacturers say, that leasing actually costs the Canadian consumer less than his or her counterpart in the United States.

Michigan was the test case in the manufacturers' study. That study found that to lease a small car in Michigan costs Canadian \$99.30 more per month than to lease a small car in Canada. To lease a mid-car in Michigan costs C\$137.15 more a month than in Canada. To lease a van costs C\$150.13 more per month in Michigan than in Canada. When all the vehicle categories are combined — cars, vans, light trucks, et cetera — the cost of a leased vehicle is 17 per cent higher in Michigan than in Canada.

• (1640)

Obviously, I cannot say that the information provided by the Canadian Vehicle Manufacturers' Association is accurate. I am in no better position to pass judgment on their data than I am on the Vertex report used by the bankers. However, I must say that it seems manifestly true that the rate of interest taken in isolation is not an accurate measure of the true cost of a lease transaction; that is, the true cost to the consumer.

Perhaps someone will say that even if the true cost of leasing a vehicle is lower in Canada than south of the border, the fact remains that the Canadian automobile dealers and the companies behind them need more competition, that they need the competition that the banks would provide. However, let us remember that world auto production capacity is far in excess of the effective demand. The competition among the automobile makers and the car dealers is far keener than the competition among the bankers, at least where small business is concerned.

Honourable senators, it is my conclusion that the committee has gone astray in this part of its report. I do not believe that evidence has been adduced to sustain this part of the report. However, I must say that I am open to persuasion. I ask those who think I am wrong to put me right.

Hon. Pierre De Bané: Honourable senators, would my honourable friend allow me to ask him a question?

Senator Stewart: Of course.

Senator De Bané: As to whether it is better for consumers to have more options, I think we should leave that in the hands of the consumers. It is up to them to decide if they would prefer to do their financing through one financial institution or another.

The point that I would like to bring to the attention of my colleague is the following. Does he not find it odd that Canadian banks are not allowed to compete with American car manufacturers in Canada, while those same car manufacturers must compete with American banks in their own country? Does the honourable senator not find this quite odd?

Senator Stewart: Honourable senators, I think I have anticipated various parts of the question in my speech.

If the competition is so much keener in the United States, notwithstanding that they have more financial institutions than

we have, why is bank car-leasing not cheaper in Michigan than it is in Canada? That is one point.

Another point is the one I mentioned concerning specialization. General Motors, for example, is in the car business. It must maintain its dealerships or it is in real trouble. That is true for all the North American manufacturers, particularly in this day of keen competition because of overproduction.

On the other hand, the banks are in a multitude of businesses, and they are all over the world. They may have an interest in auto-leasing, but they have to vital interest, as the big automobile dealers do, in maintaining the dealership chain. In fact, having gone into the car leasing business, they might find, perhaps three or four years thereafter, that it was more profitable to put their money and efforts into a faraway place such as Indonesia. Therefore, they withdraw from the car-leasing business after they have, in effect, put out of business some of the automobile dealerships in small towns.

My argument is that the automobile companies and their dealerships are in one special line of business and each is dependent on the other. That is not true in the case of the banks. They certainly are making a significant amount of money without being in the automobile-leasing business.

Senator De Bané, in his question, did not touch upon tied selling. The committee report says that tied selling is very bad; that it disrupts the market. Surely, we are presenting the banks with a wonderful temptation. As I said, if a consumer wants a new house, the banks may say, "We are more than interested in lending you the money, but we will give you a much better rate if you give us your car lease, too."

Surely, Senator De Bané is interested in protecting the integrity of the market.

Hon. Nicholas W. Taylor: Honourable senators, I also have a question to ask of Senator Stewart. He mentioned the difference in charges for renting cars. I have had occasion to rent cars in the U.S. I have noticed the higher price, in particular in Michigan. I was told in an off-hand way that that was because of higher insurance costs, not bank costs.

Did your committee check as to what the component parts of the higher costs for car rentals in Michigan were made up of?

Senator Stewart: No, Senator Taylor, not to my knowledge. When the banks made their case before the committee, as far as my knowledge goes — I must say that I did not travel across the country with the committee, I had to stay here — they relied on a report which says that car leasing in the United States is less costly to the consumer than in Canada. The report of the automobile manufacturers' association to which I referred was not available to the committee. I cannot certify that report, but I have a suspicion that it is accurate. They are adducing this evidence to rebut information already on our record. I think they would have been careful to ensure that their information was accurate.

What they found was that a car lease was more expensive in Michigan, which was their trial state, than in Canada. They explained why the Vertex figures were astray by reason of not taking into account such things as the residual value of the vehicle at the end of the contract.

Senator Taylor: Bearing in mind that the institutions which lease cars are huge financial institutions themselves, did any member of the committee ask the banks whether they would be against these institutions getting into the banking business by operating savings accounts, for example, for their customers?

Senator Stewart: No, Senator Taylor, as far as I know, we did not ask that important question.

The Hon. the Speaker: If no other honourable senator wishes to speak, the debate on this report will be considered concluded.

• (1650)

ASIA-PACIFIC REGION

REPORT OF FOREIGN AFFAIRS COMMITTEE ON STUDY—INQUIRY—DEBATE ADJOURNED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Stewart calling the attention of the Senate to the eighth report of the Standing Senate Committee on Foreign Affairs entitled: "Crisis in Asia: Implications for the Region, Canada and the World."—(Honourable Senator Andreychuk)

Hon. A. Raynell Andreychuk: Honourable senators, you will understand why I will be speaking at such a late hour. In October 1996, the Standing Senate Committee on Foreign Affairs began its study of the Asia-Pacific region and its importance to Canada, with particular emphasis on APEC and the Vancouver conference in 1997, Canada's year of the Asia-Pacific. An interim report was filed in June 1997, touching on trade and economic issues, with, regrettably, other issues to be reported in the final report.

Most notably to me, the issue of the linkage between trade and human rights was delayed. Much occurred before the final report was filed in December 1998. Our title, "Crisis in Asia: Implications for the Region, Canada and the World," tells the story.

I should like, at the outset, to particularly thank Peter Berg, Anthony Chapman and Collen Hoey, who assisted so ably in the research and preparation of this report. Also, Serge Pelletier, clerk of the committee, offered his time and assistance generously. The chairman, Senator Stewart, deserves to be acknowledged and commended for a host of reasons, not the least of which is his patience and even-handed chairing.

Honourable senators, I agree generally with the report. The trade, investment and overall economic enumerations are clear

and need little explanation. There are only some points that I should like to make. First, the economic situation in the Asia-Pacific region was never a miracle. It is based on some real economic advances, as the second page of chapter 2 of our report indicates, particularly the World Bank indicators.

The second point I should like to make is that the Asia crisis of 1997 has proven that there is no mystique in Asia, or, put another way, that Asian countries had found no way around the usual economic forces and rules.

Turning to the chapter on the IMF involvement, this remains one of the hotly debated issues with reference to the Asia-Pacific crisis. As stated in the committee's report, the current global financial system has increasingly come under attack.

The main problem is that, even though financial markets are much more integrated than product markets and capital is much more mobile than other factors of production, there is no global governance of international financial transactions analogous to that found in the areas of trade. Moreover, the present international arrangements are not only inadequate but also asymmetrical; they are designed to discipline borrowers rather than regulate lenders. This stands in sharp contrast with the way national financial systems are designed. Moreover, international arrangements are designed to manage rather than prevent crisis.

The Asian financial crisis has made it almost inevitable that there will be a post-crisis attempt to strengthen the global financial architecture, and so it should. There is growing consensus that major changes, not just stop-gap measures, are required. At present, under the mandate of IMF, it is involved by invitation only and relies on that country's data. However, there is agreement in most quarters that the IMF was not singularly at fault or ineffective in Asia. Its weaknesses are more generic; for example, its structures, its lack of transparency, its lack of attention to human consequences and their policies.

In this vein, recommendation 4 of the same chapter, asking the Government of Canada to explore the concept of a global supervisor of domestic bank regulators, both bilaterally with individual countries and within international fora, is laudable. However, the question remains, as in the IMF, about its potential real effectiveness. That is, in part, why the committee has requested a reference to study the IMF in the coming months.

I should like to draw senators' attention to the chapter on Asia-Pacific security issues. While traditional security threats are raised enumerating potential conflicts in the region and internal armed conflicts, the most worrisome aspects lie in the arms trade. Next to the Middle East, the Asia-Pacific region represents the largest arms market in the world. In contrast to the post-Cold War draw-downs of personnel and equipment in the countries of NATO and the former Warsaw Pact, the recent years have seen significantly increased expenditures on the part of the countries of East Asia. Mr. David Dewitt, director of the Centre for International and Security Studies, York University, described the Asia-Pacific region as follows:

...the sink for weapons, both old and new, recycled and cutting edge.

Perhaps one positive outcome of the Asian financial crisis is the decreased financial capacity of these governments, and hence their smaller purchases. Beyond some bilateral arrangements, there are no regional security mechanisms and no history of the same. We should not underestimate the tensions in this region.

I note that China has the largest army in the world. Wealth is being siphoned off for weapons. The real need is to encourage de-escalation in the region and to begin to build a climate of trust or confidence-building, as it has commonly come to be referred.

I believe that the Government of Canada is on the right track with its policy, and the recommendations in the committee's report go to bolster the current activity. If we are to prevent conflict, we need to act now, not at the point of conflict. In this case, the track-two measures identified in our report are crucial, as they involve more of civil society and the academic community and, therefore, create a better climate for peace than simply government contacts which inevitably lead to defending sovereignty dialogues.

Turning to Canada's trade policy towards the Asia-Pacific region, most witnesses, including government officials, noted that Canada needed to expand its trade potential. Generally, three reasons were given: The globalization of markets, the need to be competitive, and the realization that growth would come to Canada only through exports.

Much more time was spent by witnesses who generally were engaged in the Asia-Pacific region already, and from the Asia-Pacific region, scholars and the like, noting the growth potential in this vast region. It would seem the easiest road to travel for Canada was to step up its trade initiatives in the region, especially China, and all would be well at home.

In short, "Asian fever" broke out, as Chris Patton, in his book *East and West*, pointed out. The Canadian government seemed to place trade strategies around two concepts, Team Canada and APEC, with customs and tariff liberalization as the keys to success for 1997. Our study followed in time, chronologically, the economic crisis in Mexico and the continuing economic prosperity in Chile. The dialogue with government officials and Canadian ministers did not centre on Canada's need to look again at our internal productivity, tax structures, research and development strategy, et cetera. All these issues were dismissed. Nor was the economic miracle questioned. On the contrary, it was lauded, dismissing any criticism or questioning. Somehow, Asia had found the key to success, and few questioned its continuance. Rather, many foretold of its expansion. It was a time when economic success was seen to be the precursor for all other positive change.

• (1700)

The debate, certainly from Canadian officialdom, was about how to get into the action, but not by any discussion and at what cost. Their answer was quick and not to be questioned: Team Canada and tariff and custom liberalization through APEC.

It was reassuring that some of our witnesses, business people and others, told a more balanced account. While trade opportunities were there, and continue to be there, some noted the real dilemmas of working in the Asia-Pacific region. As one witness pointed out, deals come only after long-standing relationships are built. Many raised the issues of corruption, cronyism, lack of an independent judiciary, no protection or recourse in contracts, and no rule of law.

Canadian businesses even talked of codes of professional conduct to combat the lack of ethics displayed in business competition. Some even raised the need to hold countries accountable for the human rights contraventions where these countries had signed conventions to the contrary.

All this was happening while the Canadian government was moving in a different direction. I shall say more about this later.

The report noted, for the government's consideration, many worthy suggestions made to the committee by the Canadian businesses in the Asia-Pacific region. For example, the need to assist small and medium businesses was paramount. Cross-cultural training, education and more effective use of the immigrant population in Canada was explained and recommended. In fact, the immigrant population was said to be our hidden resource, and one worthy of note. The need for continuity of knowledge in our embassies was another issue.

From the government side, it would seem that the debate was simplified to a quick fix: Team Canada to open the door and APEC to lower barriers.

It would seem that Canada's position lay not with the deep analysis but with the quick-fix mentality. In the heady times of the era of the Asian miracle, Canada — though not alone — did not pursue a normal trade policy nor a principled, balanced foreign policy. Rather, Canada fell into, or bought into, a quick solution: Get your fair share of trade in the expanding market, no matter how you do it. It was a sure fix, an easy way out of Canada's financial difficulties and, it appeared, desired at any cost.

What was the result? All countries are judged on their economic successes, but not alone on this marker. The Canadian government made the mistake of turning Canada's foreign policy into a trade policy, relegating all other facets to oblivion or poor seconds.

Professor Brian Job of the Institute of International Relations, University of British Columbia, pointed out in early 1997, rather prophetically:

The basic argument in my remarks is that we Canadians in academic, government and private sectors cannot simply define our relationship with Asia in narrow economic terms, that is, as jobs, jobs, jobs and trade, trade, trade. I argue that if we do define our foreign policy and our bilateral relations with Asia solely in economic terms, we would be myopic because we will eventually undermine our economic interests and our success in the region.

My first point is the inseparability of stability, security and economics in the Asia-Pacific region. The second is the drawbacks to what I will term a "monochromatic foreign policy." The third point is sustainability after APEC and the year of Asia Pacific in Canada.

To the first of these points, the inseparability of stability, security and economics, in 1995 a survey of senior executives and middle managers doing business in Asia Pacific found that 77 per cent of them regarded political instability to be the major barrier to doing business in emerging markets in the region. In January 1997, the lead editorial in the *Far Eastern Economic Review* states:

The question marks that hang over the Asia miracle have little to do with business. From Japan to Thailand and Indonesia, the question marks are fundamentally political.

My point is that we have to continue to pay attention in our foreign and economic policy to these particular underpinnings within the region and within these countries as we go forward. I would suggest, perhaps a bit more than we are doing at the moment.

My second point is on the drawbacks to what I would call a "monochromatic foreign policy." I am overstating this a bit, but I want to focus your attention by using that phrase.

In its statement on foreign policy, the Canadian government defined its primary foreign policy priority as an economic one, that is, advancing the economic health of Canadians. Certainly this makes sense for a country as dependent on trade as Canada. The result needs to be foreign policies that focus on advancing our economic interests. However, this should not mean that our foreign policies can or should be defined solely in economic terms.

Increasingly, Canada will find that its economic interests have social, political and security implications.

Mr. Chris Patten in his book *East and West* at page 110 states:

Despite the continuing friendliness of the Chrétien government and its avowed interest in human rights, we got the distinct impression that concerns about trade with China inhibited outspokenness about political issues on which China appeared sensitive.

This short-sighted policy played heavily into the hands of Asian leaders; for example, to accept no criticism, to use sovereignty as a shield, to cow countries into abiding by their opinions and wishes and to praise Asian values as something different from international values.

In fact, in the case of China, around that time there was no mention of three T's — Tiananmen Square, Taiwan and Tibet. References were not to be tolerated. Inference or outright

suggestion of the risk of loss of trade was the order of the day. The backing down on the China resolution in the Human Rights Commission by Canada and others will be regretted.

These concepts lay at the root of the debate on whether political change follows economic development, or vice-versa. More important, is human rights too Western a concept, and only to be considered after economic reform?

The debate was crystallized in a very interesting exchange in the committee on April 9, 1997, between our chairman and Professor Amitav Acharya, associate professor, Department of Political Science, York University, Toronto, and also associate professor at the University of Toronto, York University Joint Centre for Asia-Pacific Studies.

The Hon. the Speaker: Honourable Senator Andreychuk, I regret to interrupt you but your 15-minute speaking period has expired.

Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Andreychuk: Mr. Acharya gave a long and studied presentation to the committee on human rights. Our chair, in his excellent, probing manner — and I believe playing the devil's advocate to a certain extent — took the opposite view on the issue of human rights as that presented by Professor Acharya when he pointed out that the development of human rights in England and France took time to formulate. It was a long and developmental process, preferring peace and security first. He stated:

Using that as an example, what is wrong with the position taken by thoughtful people in some of these countries that, despite their good intentions, what the advocates of human rights are likely to bring about is poverty and anarchy?

• (1710)

Professor Acharya responded as follows:

Two things are wrong with this policy, if I may put it very bluntly. First, when countries such as England, the United States and European countries were going through a comparable stage in their economic development at a time when they emphasized peace and stability over human rights, they were living in an international environment where no one cared about human rights. The international norm of human rights was not there.

Today, Asian governments make the same point that you are making....We have had about 40 or 50 years of independent existence. European countries have existed for centuries. They have had their own fights and wars. They went through a lot of turmoil. There were no human rights then. Who are they to tell us to observe human rights which they learned to observe after centuries of evolution?

My answer to that is that the world has changed. We have international norms and standards of behaviour which are very different from the kind of behavioural norms that we had in the 17th and 18th centuries. International human rights today is an accepted norm of international politics and, therefore, I think one can learn it much faster. One should try to adapt to it much faster.

My more important concern is that I do not think there is a negative correlation between human rights and prosperity. Until recently, people used to say look at Southeast Asia. Singapore has done very well. It is economically prosperous partly because of a kind of soft totalitarianism. The leaders of Singapore used to say look at India; look at the Philippines. They have a lot of civil liberties, but, economically, they are left far behind Singapore.

That, of course, has changed.

He went on to say:

Even if I concede your point that it is necessary in the beginning to have some restrictions on human rights in order to allow political stability and economic growth, you cannot continue to do that forever....Why do they continue to have the same policies in the 1990s that they had in the 1950s and 1960s?

Yet, per capita income has grown in Singapore.

The question of Asian values and human rights as a western concept was raised by me. Again, Professor Acharya responded by saying:

My definition of human rights is rights that every person enjoys simply by being human. There are no cultural conditions attached to this.

Governments will say that there will be a core group of human rights, but whether they observe it in practice is another question. The issue becomes very complicated.

Much research has been done on the question of human rights in different cultures, and they have come up with the same point that you made — every culture acknowledges and respects the dignity of human beings. We just have to make sure that political authorities do not abuse it.

Many others echoed his position. Therefore, at the back of our study on trade and investment was always the human rights dimension.

Rather than usual practices, the Canadian government became an apologist for certain leaders in the Asia-Pacific region, embracing their arguments rather than bringing our perspectives. That was left to individual Canadians and organizations. In this

process, our values and good practices were left at the door at home. "Economy first" became our slogan.

What happened to cause this? There has always been a dialogue about the methods and mechanisms that Canada should employ in the pursuit of human rights. It was the first time in recent history that a Canadian government relegated human rights to such a low priority. It would seem that as Prime Minister Chrétien stated "jobs, jobs, trade, trade," he and others of his government simultaneously made further less helpful statements; for example, that Canada should not be shrill on human rights. However, many questioned: "When were we shrill?" Comments continued, as we are no boy scouts: Even if Canada spoke, we are not powerful enough to be listened to.

The trouble with this constantly moving approach was two-fold. First, it was not reflective of the majority of Canadians. Second, the matter of timing coincided with the muscling of Asian tigers and the Asian miracle.

With the Canadian government focusing on trade, the APEC summit in Vancouver took on a different character. Official after official went to great pains to characterize APEC as a trade environment with no room for other issues, especially human rights.

However, many outside of the government disagreed. Ms Maureen O'Neil, president at that time of the International Centre for Human Rights and Democratic Development, stated:

I wish to thank this committee for calling hearings on APEC and, in particular, for providing this opportunity to talk about issues that are not, in the strictest sense, economic or business related, but which encompass the broader social, environmental and human rights implications of participating in APEC.

Again and again it has been said that APEC is a forum for discussion about trade and, to a certain extent, economic and technical cooperation and that there is no use muddying its waters with other issues. In our view, this is short-sighted...

It has become increasingly clear that issues of trade and investment ought not to be discussed in isolation from human rights and democracy.

Ms O'Neil further stated that the ideas of human rights, as being translated to us through APEC members, were not the ideas of the citizenry, that they were really the ideas of the leaders and that the fundamental values which we call human rights were being echoed in those countries.

When pressed on issues, government officials conceded room for an NGO forum on human development issues but still emphatically maintained no human rights on the agenda. The clear impression I received was that human rights was a no-no: only pure trade. There was no room for discussion, no room for opposition, and certainly opposite views would not be tolerated.

It is small wonder that the demonstrations in Vancouver took place. Our government's behaviour is and will continue to be scrutinized as a result of its narrowed foreign policy.

As I said in the hearings in February 1997, this is not an Asia-Pacific human rights debate; this is a Canadian debate. It was created and propelled by the government. The majority of Canadians had the right take on the human rights issue.

Ironically, APEC 1997 showed that human rights is still a Canadian issue. In my opinion, the answers for the government lie in Chapter 7 of the committee's unanimously adopted report. It is the starting point for a sensible, balanced and principled foreign policy. I personally would have gone further. However, I would have been satisfied in 1997, and I would be satisfied today, had the government adhered to the minimum standards set out in Chapter 7 of our report.

Finally, as a footnote about Asia-Pacific, I should like to say that Asia-Pacific is not over there; Asia-Pacific is us, as we were told time and again. It mattered greatly in 1997 and it matters just as greatly now. However, so does our foreign policy, and I trust that it will be more balanced in the future.

Hon. John. B. Stewart: Honourable senators, I think it is fair to say that all members of the committee put great importance on the value of human rights. However, we were told that one of the problems in that part of the world is weak governments. When a government does what was done at Tiananmen Square, that is not evidence of strength; rather, it is evidence of weakness.

The problem in many countries is that they have weak governments. They are competent to sign agreements and conventions in New York, but when they get back home, they do not have the competence to perform.

Is that not the real problem, rather than getting an agreement on the content of a charter of human rights?

• (1720)

Senator Andreychuk: Senator Stewart has often addressed this matter eloquently in our committee hearings. I respect the point of view that governance is an issue in that area. I would encourage other senators who have not read Chapter 7 to read it, because that point is clearly made there.

However, if we were only zeroing in on economics, we forget about the stability and security, and that is the good governance issue. We addressed that in Chapter 7 by saying that we need to work on their independent judiciary, and find ways and means to support and encourage civil society and encourage good development frameworks for their governments.

I do not believe that the problems in the Asia-Pacific region lie squarely with that alone. I believe that there must be a calling to task of the leadership, and their willingness to work on the issues of good governance, rather than just on maintaining power and

authority. When governments run into problems, there are alternatives, if they wish to seek them. Time and time again, we have had that debate. I recall the Guatemala debate when the government would not respond. It said, "We do not have the structures. It is our security that is being threatened. We must go to these measures." When we started to get governments that would open up and pointed out the weaknesses and difficulties that they had, there was a de-escalation of the human rights abuses.

I would point out what was said in our community by Canadian businessmen who were going there. They said, "If countries in the Asia-Pacific region go to the United Nations and become members and sign covenants, it is perfectly in order for Canada to call them to task on violating such covenants." The only way we will have a universal international order is by holding them accountable for what they have already signed. Perhaps we should be encouraging them to sign more, but the accountability should be there.

On motion of Senator Kinsella, debate adjourned.

[Translation]

OFFICIAL LANGUAGES ACT

PROGRESSIVE DETERIORATION OF FRENCH SERVICES AVAILABLE TO FRANCOPHONES OUTSIDE OF QUEBEC— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Simard calling the attention of the Senate to the current situation with regard to the application of the Official Languages Act, its progressive deterioration, the abdication of responsibility by a succession of governments over the past ten years and the loss of access to services in French for francophones outside Quebec.—(Honourable Senator Kinsella)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on June 3, 1998, the Honourable Jean-Maurice Simard called to the attention of the members of this House the deterioration of services in French for francophones outside Quebec. Like a number of my colleagues, I wish to speak today in support of his action, by bringing to your attention the recent report by the Task Force on Government Transformations and Official Languages.

[English]

However, before dealing with that report, I should like to raise several adjacent matters, only because these two questions have troubled me about our official languages in the recent past. Both involve the academic community, a community in which I myself participate.

I was curious to find out what progress had been made in Canadian academia as far as our official languages are concerned, so I contacted the Association of Universities and Colleges of Canada and the Canadian Association of University Teachers. I asked them, in 1999: "What is the rate of our professorial core in Canada who are now bilingual, and how does that compare with 25 years ago?" Unfortunately, honourable senators, neither organization, as they informed me, keep any data as to our official languages capacity among the professorial core in our Canadian institutions.

I recognize that the Official Languages Act does not apply directly to the universities. However, on the other hand, we all recognize that the public treasury of Canada is an important resource, through the transfer programs and the student loans programs and the research programs, of Canadian academia. I do not know what that status is, but I would hope that someone would undertake such an inquiry.

My hypothesis is that unless the leadership in this country is making progress there, then perhaps we will not be making the level of progress that we ought to be making as a national community.

Second, as honourable senators may know, various academic associations such as the Canadian Association of Economists and the Canadian Association of Political Scientists, meet at about this time of year. They meet at different universities, which they choose in order to keep the costs down, across the country under the umbrella of the Learned Societies — la Société des savants. I recall a few years ago attending one of their meetings and seeing the banner welcoming the members to the Learned Societies of Canada, la Société des savants du Canada. I was astonished. What was present? Simultaneous translation in French and in English for our savants in Canada. I found that somewhat curious. I attempted to find out how many of our learned societies are getting government grants to pay for translation. Does that not speak to something? Can you imagine the professional associations meeting in Belgium or in Switzerland and having simultaneous translation? It does not happen. They all communicate in the official languages of their country.

[Translation]

For several years now, the federal government's application of the Official Languages Act in the federal public administration and its support to the francophone minorities in our country have often been in the spotlight. In the past 10 years, regardless of who was in power, the federal government has made major changes to its administrative mechanisms with a view to modernizing and rationalizing the delivery of services to the Canadian public.

These government changes have had a major impact on people's daily lives. When services have been privatized, service points and sometimes meeting spaces have been eliminated in a number of regions.

For many, it was clear that the impact of government transformations on the people of Canada warranted in depth study. Canada's Commissioner of Official Languages undertook such a study from an official languages standpoint. In a report entitled "Government Transformations: The Impact on Canada's Official Languages Program" the commissioner stated that these transformations had led to a marked deterioration in access to services in one of the two official languages in a number of regions in the country for francophone communities, to the federal government's shirking of its responsibilities and to a significant weakening of official languages programs in Canada. In the face of this, the commissioner severely criticized the federal government.

In response to this criticism, the President of the Treasury Board created a task force in 1998 headed by Yves Fontaine. This group comprised members from every region of the country and from both majority and minority official language communities. The mandate of the group was to analyze the effect in official languages terms of government transformations and to propose means of improvements. The investigation was to focus on the following: service to the public, language of work, equitable participation and the growth of minority official language communities. The task force also analyzed the status of federal government obligations, commitments and accountability with respect to official languages as the result of these transformations.

After over eight months of investigation and many consultations, the task force on government transformations and official languages presented the results of its work to the President of the Treasury Board in January 1998. In the Fontaine report entitled "No Turning Point: Official Languages in the Face of Government Transformations," which others have called the Fontaine report, the task force concluded that the transformations had had a significant effect on the minority official language communities, specifically those of the francophones outside Quebec.

To a large extent, the report simply confirmed the earlier criticisms of the Commissioner of Official Languages. The Fontaine group concluded that the government transformations of the past ten years had given rise, and I quote:

...a subtle but cumulative erosion of language rights in delivery of service to the public, language of work, equitable participation and support for the development of minority official language communities.

In this regard, during the consultations held by the task force, the Société Saint-Thomas d'Aquin, in Prince Edward Island, said in reference to the issues that are inherent to government changes that the members of francophone communities outside Quebec are losing hope as they realize that their constitutional rights exist only on paper. They will soon stop fighting for their rights. For this organization, the lack of accountability in the federal public administration, and its withdrawal from the area of minority communities, call the Official Languages Act into question.

Honourable senators, it is urgent, therefore, that the federal government solemnly reaffirm its commitment to Canada's linguistic minorities to ensure enforcement of the act, if it is to preserve its credibility among Canadians.

The Fontaine report also discusses the impact of the recent privatization of several federal Crown corporations, and of the transfer of responsibility to the provincial administrations, on the effectiveness of the accountability process to the Parliament of Canada, regarding enforcement of the Official Languages Act in the delivery of services in both languages.

As for the problem that could be caused by the privatization of a Crown corporation, the committee recognizes that respect of all the rights and obligations mentioned in the act posed a major challenge, since Parliament no longer has any power to monitor the enforcement of the provisions relating to the delivery of services in both official languages. Moreover, these new bodies are not subjected to the accountability processes that are in place for federal departments, for example. Organizations such as Air Canada or Canadian National are commercial ventures, which must, in this era of globalization, meet certain requirements in terms of profitability and competitiveness. This means that the corporate culture of these companies must reflect that reality. It is therefore more difficult to integrate linguistic obligations in this new context. The Task Force recommends that the government use, with these former Crown corporations, an approach that is geared to the new environment in which they operate, while developing appropriate follow-up, evaluation and accountability procedures with regard to the provisions of the act.

Honourable senators, in closing, I would remind you that the strength and unity of our country depends on the vitality of its cultural communities. Canada has two linguistic communities — francophone and anglophone, officially recognized in Canada and in my province of New Brunswick — the first nations, and other ethnic groups forming a partnership that is unique in the world. The French and English languages are the fundamental characteristics of our identity as Canadians. They also underpin our country's constitutional, political and cultural foundations. The founding fathers recognized this in 1867, and they were incorporated into the Constitution in 1982. They attest to the existence of the linguistic duality, something to be cherished by Canadians.

This year, honourable senators, we are celebrating the thirtieth anniversary of the Official Languages Act. It is true that there has been progress in the use of French outside Quebec within the federal government and in the provinces. But in the last ten years the context has changed, as I was saying earlier.

The imperatives of a zero deficit and globalization seem to have relegated the Act's objectives to a backburner. The simple administrative fixes proposed by the President of the Treasury Board are no longer enough to resolve the problems raised by the Official Languages Commissioner and by the Fontaine report.

Honourable senators, the Parliament of Canada must examine this issue more closely in terms of the new national and international realities our country is facing. These realities are very different from those that led to the adoption of the Act in 1969.

For all these reasons, I am very pleased today to second Senator Simard.

On motion of Senator Carstairs, for Senator Gauthier, debate adjourned.

[English]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, May 31, 1999 at 8 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, May 31, 1999 at 8 p.m.

**THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)**

Thursday, May 13, 1999

**GOVERNMENT BILLS
(SENATE)**

No.	Title	1 st	2 nd	Committee	Report	Amend.	3 rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications	98/04/02	four	98/05/27	98/06/18	20/98
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20	98/06/11	12/98
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	three	97/12/16	98/05/12	06/98
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11	98/05/12	09/98
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19	98/06/11	13/98
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none	98/06/02	98/12/03	33/98
S-21	An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts	98/12/01	98/12/03	Whole	98/12/03	one at 3 rd	98/12/03	98/12/10	34/98
S-22	An Act authorizing the United States to preclear travellers and goods in Canada for entry into the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health	98/12/01	99/02/11	Foreign Affairs	99/03/24	four	99/04/28		

S-23 An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier

98/12/10 99/02/03 Transport and Communications
99/03/11 none 99/03/16

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st Committee	2nd Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/12/16 Committee of the whole 97/12/17	none	97/12/18	97/12/18	40/97	
C-3	An Act respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts	98/09/30	98/10/22 Legal and Constitutional Affairs	98/12/08	none	98/12/09	98/12/10	37/98
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26 Agriculture and Forestry	98/05/14	five	98/05/14	98/06/11	17/98
C-5	An Act respecting cooperatives	97/12/09	97/12/16 Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26 Aboriginal Peoples	98/06/09	none	98/06/18	98/06/18	25/98
C-7	An Act to establish the Saguenay-St.Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02 Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97
C-8	An Act respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas	98/03/17	98/03/25 Aboriginal Peoples	98/03/31	none	98/04/01	98/05/12	05/98
C-9	An Act for making the System of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/12/09	98/03/26 Transport and Communications	98/05/13	none	98/05/28	98/06/11	10/98

C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology	98/06/04	none	98/06/08	98/06/11	11/98
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05	98/06/03	Transport and Communications	98/06/10	none	98/06/11	98/06/11	16/98
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/06/08	Social Affairs, Science & Technology	98/06/18	none	98/06/18	98/06/18	26/98
C-20	An Act to amend the Competition Act and to make consequential and related amendments to other Acts	98/09/24	98/11/17	Banking, Trade and Commerce	98/12/03	none + two at 3rd	98/12/10 Commons amendments referred to Committee 99/02/11	99/03/11	02/99
C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none	98/03/31	98/03/31	04/98

C-22	An Act to implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-27	An Act to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements	99/04/21	99/04/27	Fisheries	99/05/13	none	99/05/13	99/05/13	
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98

C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	98/03/26	98/03/31	02/98
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26	—	—	—	98/03/31	98/03/31	03/98
C-35	An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act	98/12/07	99/02/17	Foreign Affairs	99/03/24	none	99/03/25	99/03/25	12/99
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998	98/05/28	98/06/08	National Finance	98/06/15	none	98/06/17	98/06/18	21/98
C-37	An Act to amend the Judges Act and to make consequential amendments to other Acts	98/06/11	98/09/22	Legal and Constitutional Affairs	98/10/22	eight	98/11/04	98/11/18	30/98
C-38	An Act to amend the National Parks Act (creation of Tuktut Nogait National Park)	98/06/15	98/06/17	Energy, the Environment and Natural Resources	98/12/01	none	98/12/10	98/12/10	39/98
C-39	An Act to amend the Nunavut Act and the Constitution Act, 1867	98/06/03	98/06/08	Aboriginal Peoples	98/06/09	none	98/06/10	98/06/11	15/98
C-40	An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence	98/12/02	98/12/10	Legal and Constitutional Affairs	99/03/25	none	99/05/12	—	—
C-41	An Act to amend the Royal Canadian Mint Act and the Currency Act	98/12/02	98/12/09	National Finance	99/02/18	none	99/03/02	99/03/11	04/99
C-42	An Act to amend the Tobacco Act	98/12/02	98/12/08	Legal and Constitutional Affairs	98/12/10	none	98/12/10	98/12/10	38/98
C-43	An Act to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence	98/12/08	99/02/10	National Finance	99/03/18	none	99/04/27	99/04/29	17/99
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	28/98
C-46	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	29/98
C-47	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	98/06/11	98/06/16	Banking, Trade and Commerce	98/06/17	none	98/06/18	98/06/18	23/98
C-49	An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management	99/03/09	99/04/13	Aboriginal Peoples	99/05/13	2	99/05/13	—	—

C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs	99/03/04	none	99/03/09	99/03/11	05/99
C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24	98/12/03	32/98
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09	98/12/10	36/98
C-55	An Act respecting advertising services supplied by foreign periodical publishers	99/03/16	99/03/24	Transport and Communications 99/03/25	99/02/18	none	99/03/02	99/03/11	03/99
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/03/17	none	99/03/18	99/03/25	09/99
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications	99/02/16	none	99/02/18	99/03/11	01/99
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	—	—	98/12/09	98/12/10	40/98
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	Social Affairs, Science & Technology	99/03/23	none	99/03/24	99/03/25	10/99
C-61	An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-Related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof	99/03/16	99/03/18	National Finance	99/03/23	none	99/03/24	99/03/25	10/99
C-65	An Act to amend the Federal-Provincial Fiscal Arrangements Act	99/03/11	99/03/16	Social Affairs, Science & Technology	99/03/23	none	99/03/24	99/03/25	11/99
C-66	An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act	99/05/11	99/05/11	National Finance	99/05/12	Banking, Trade and Commerce	—	—	—
C-71	An Act to implement certain provisions of the budget tabled in Parliament on February 16, 1999	99/05/11	99/05/11	Social Affairs, Science & Technology	99/05/13	Banking, Trade and Commerce	—	—	—
C-72	An Act to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act	99/05/11	99/05/13	—	—	—	—	—	—

C-73	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	99/03/17	99/03/23	—	—	—	99/03/24	99/03/25	14/99
C-74	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/03/17	99/03/24	Committee of the Whole 99/03/25	none	99/03/25	99/03/25	15/99	
C-76	An Act to provide for the resumption and continuation of government services	99/03/24	99/03/24	Committee of the Whole 99/03/25	none	99/03/25	99/03/25	13/99	

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-208	An Act to amend the Access to Information Act	98/11/17	99/02/11	Social Affairs, Science & Technology	99/03/11	none	99/03/16	99/03/25	16/99
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Constitutional Affairs	98/06/10 adopted	recommend Bill not proceed	two	98/06/09	98/06/18
C-410	An Act to change the name of certain electoral districts	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	18/98
C-411	An Act to amend the Canada Elections Act	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	27/98
C-445	An Act to change the name of the electoral district of Stormont-Dundas	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	07/99
C-464	An Act to change the name of the electoral district of Sackville-Eastern Shore	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	08/99
C-465	An Act to change the name of the electoral district of Argenteuil-Papineau	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/09	99/03/11	06/99

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3) 98/10/01		
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03	none	referred back to Committee 98/09/24	one	

S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/06/04	one	98/06/09	Motion for 2nd reading negated in the Commons 99/04/13
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs	98/05/14	seven + two at 3rd	98/06/10	Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02
S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology	98/05/14	seven +	98/06/10	
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples				
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18 Report & Bill withdrawn 98/12/08	four	98/06/18	
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs				
S-19	An Act to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)	98/06/18						
S-24	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Beaudoin)	99/03/03						
S-26	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/03/10						
S-27	An Act to amend the Canada Elections Act (hours of polling at by-elections) (Sen. Lynch-Staunton)	99/03/116						
S-28	An Act to amend the Canada Elections Act (hours of polling in Saskatchewan) (Sen. Andreychuk)	99/04/20						
S-29	An Act to amend the Criminal Code (Protection of Patients and Health Care Providers) (Sen. Lavoie-Roux)	99/04/29						

PRIVATE BILLS

PRIVATE BILLS						
S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.)	98/06/17	99/04/20	Banking, Trade and Commerce	99/05/04	none
	(Dropped from Order Paper pursuant to Rule 27(3)(b) (27/3/98/11/17) (Restored to Order paper 99/04/15)					99/05/05
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03 three	98/12/09 99/03/25
S-25	An Act respecting the Certified General Accountants Association of Canada (Sen. Kirby)	99/03/04	99/03/23	Banking, Trade and Commerce	99/04/20 two	99/04/22 99/04/29
S-30	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/05/13				

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CANADA

Debates of the Senate

1st SESSION

• 36th PARLIAMENT

VOLUME 137

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OFFICIAL REPORT
(HANSARD)

Monday, May 31, 1999

THE HONOURABLE FERNAND ROBICHAUD
ACTING SPEAKER



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(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 995-5805

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THE SENATE

Monday, May 31, 1999

The Senate met at 8:00 p.m., the Acting Speaker, the Honourable Fernand Robichaud, in the Chair.

Prayers.

SENATORS' STATEMENTS

CHINA

TENTH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

Hon. Consiglio Di Nino: Honourable senators, this week marks the tenth anniversary of the day that the Chinese leadership ordered tank commanders to massacre defenceless students, their own citizens, who had peacefully gathered in Tiananmen Square in the name of democracy, in a country where democracy is outlawed.

We in Canada live in a free and democratic society. We enjoy freedom of conscience, of religion, of expression, and of association. We have the right to due process and fair trial. People opposed to government are called "critics" and are debated; they are not labelled dissidents, taken away, jailed and tortured, as happens in China.

I am not trying to be sanctimonious. I know that we are not perfect. As an example, the actions of the Prime Minister's Office during the APEC affair showed us that we are not above trampling on the basic human rights of our citizens, regardless of what we say about democracy. However, at least in Canada, these citizens have the right to due process.

Last weekend, we saw the first hint that this government is even aware of what happened in Tiananmen Square a decade ago during those brief, bloody days. Unfortunately, once again, it was neither the Prime Minister nor the Minister of Foreign Affairs who was responsible for this; it was Minister Raymond Chan. Referring to the massacres of 1989, Mr. Chan told an audience in Vancouver:

Human dignity and human lives are the most valuable things a nation has. No government can justify killing its own people.

I could not agree with him more.

• (2010)

Mr. Chan was once a great supporter of human rights in China, but he has all but abandoned that fight and has been absent since being appointed to cabinet. I was therefore surprised —

pleasantly so — to see that he has apparently rediscovered his convictions, perhaps on his own personal road to Beijing. I hope we will be hearing more from him and his colleagues. Perhaps the Prime Minister will also see the light and realize that, in terms of importance, human rights should rank far above trade statistics.

Honourable senators, we must not allow the thousands of victims of the senseless brutality in Tiananmen Square 10 years ago to have died in vain. Some of us will continue the struggle in their names.

UNIVERSITY OF PRINCE EDWARD ISLAND

CONGRATULATIONS TO CENTRE FOR INTERNATIONAL EDUCATION ON WINNING NATIONAL AWARD

Hon. Catherine S. Callbeck: Honourable senators, national recognition came to the University of Prince Edward Island recently in the form of a Scotiabank-Association of Universities and Colleges of Canada Award for Excellence in International Education. The university's new degree of Bachelor of Education with a specialization in international education was picked as the top entry in the category of curriculum change, demonstrating how well UPEI's international perspective is incorporated into its academic curriculum.

In 1996, the Faculty of Education renewed its curriculum, a decision which involved implementation of four strategies: exposing students to different cultures and educational systems; developing partner schools in other countries; creating a Centre for International Education on campus; and ensuring that all faculty receive topical information and gain international experience.

The national recognition that the program has received is testament to the fact that it has proven to be very successful. The Centre for International Education, I believe, has been the most notable element. Students and teachers alike have travelled the globe to develop their skills and increase their knowledge. Since the centre opened, it has placed over 80 teachers internationally.

The concept of peace and the role Canada plays with respect to peace are very close to the hearts and identities of Canadians. They are very much in the minds of many of us here in this chamber, and have been the focus of much debate over the past several weeks. We may not come to a consensus on the precise role that Canada should play. However, there is one thing we can all agree upon: Without mutual understanding, there can never be lasting peace. Honourable senators, there can be no understanding without a well-founded and current knowledge of the different countries and cultures of the world.

This is the type of mutual understanding that is developed in this program at the University of Prince Edward Island. I would like to congratulate the university's faculty and staff on their recent recognition.

HUMAN RIGHTS

THE WINDS OF CHANGE

Hon. Calvin Woodrow Ruck: Honourable senators, I rise to speak to human rights and the winds of change. The late Sir Harold Macmillan, then the Prime Minister of Great Britain, coined the phrase, "The winds of change," in a speech to the parliamentarians of South Africa. He implored them to recognize the winds of change that were blowing throughout the continent of Africa, and to come to terms with them. At that time, it appeared that his plea had been ignored. Eventually, however, the winds of change in South Africa became a hurricane which blew the parliamentarians of South Africa out of power, and into the seat of power came Nelson Mandela, the gentleman with whom we had the privilege of speaking and of listening to, not too long ago.

The winds of change are still blowing throughout the continent of Africa, and also right here in this proud country we call Canada — our beloved country. Adopting the Universal Declaration of Human Rights has made a change in the lives of many minority people. It has definitely made a change in my life. There were places I once could not go in Canada. I recall my first visit to the Queen's City, Toronto. The first time I set foot on the soil of Toronto, I was refused service in a restaurant along with a friend of mine, another sleeping-car porter. When we asked why they would not serve us, we were told that blacks had caused fights in that particular restaurant on several occasions. We told the manager that we were not from Toronto, that we were just visitors newly arrived in Toronto. We were ignored, and we had to leave and seek service elsewhere. There was still room for the winds of change in Canada, and the Universal Declaration of Human Rights has created that change in many areas.

We in the province of Nova Scotia can now live in the community of our choice. Not too many years ago, this right was not available to all of us. When I purchased land, I ran into a petition against me and my family because we were the first black family to settle in that area. However, the Lord is good; we are still there, and we are getting along fine. We have no problems with our neighbours. They now see us as ordinary, God-fearing, law-abiding citizens. That is what most of us are.

There has been change, and change is continuing. My presence as a member of the Senate is an indication of that change. The call came very unexpectedly, and when it came, I prayed that I might be able to make a contribution to Canadians, regardless of race, colour, creed, sex, or national origin.

The winds of changes are still blowing. We have black young people working in banks as clerks and managers. Twenty years ago, such a thing was unheard of. Blacks are now living in various parts of our province and getting along fine with their neighbours. There are still some areas for improvement — but what else is new?

The winds of change have brought us all a long way since World War II. That was a very majestic time, a time for men and women to go off to war and be measured in the arena of world conflict. It is hoped that we will never have another war, although the winds of war are blowing now throughout Yugoslavia. We trust and pray that a peaceful resolution may be found to the problems that beset that troubled nation, and that we will all be able to sit down together in brotherhood and say, "Thank God, we are free at last. Thank God almighty, we are free at last."

UNITED NATIONS

POPULATION AND DEVELOPMENT PROGRAM

Hon. Mira Spivak: Honourable senators, this month the United Nations General Assembly will review the progress made by the 180 nations which endorsed a program at the 1994 UN International Conference on Population and Development in Cairo.

The program has three goals for the year 2015: to reduce infant, child and maternal mortality; to provide universal access to education, particularly for girls; and to provide universal access to a full range of reproductive health care and family planning services.

For women, two of these goals — reducing the numbers of needless maternal deaths, and providing women with reproductive health care and choice — are matters of the most basic and fundamental of human rights. Without life, other human rights of are no consequence. For the nearly 600,000 women who die each year from pregnancy-related causes, achieving the goals of Cairo is quite simply a matter of life.

Five years after Cairo, nations have made great progress in reducing child and infant mortality rates, chiefly through immunization programs, but little or nothing has been done to reduce the pregnancy-related death toll. Many of those 600,000 deaths could be prevented with basic health care, training for birthing attendants, and contraceptives for women who have children too often, too young, and even too late.

Why has so little been done? Because the international community is afraid to confront the so-called controversial nature of the issues. It is afraid to address the needs of women who resort to unsafe, back-street abortions, who often die as a result, or who, when they live, are at risk of imprisonment for breaking their national laws. In ignoring these pressing issues, we are condoning human rights violations of the most serious nature.

What can our country do? First, it can live up to the commitments we made in Cairo — both the financial commitments and the policy commitments. Second, it can show leadership. Canadians have a history of success as human rights advocates. I think of this country's tremendous contribution to successfully negotiating the treaty on landmines and the role we played in the creation of the International Criminal Court. I pay tribute to the Honourable Lloyd Axworthy, one of my fellow Manitobans, for his outstanding work in this area.

Honourable senators, we have a strong reputation as a negotiator in the international arena. This strength could and should be applied to ensuring that women have access to safe contraception, good prenatal care and obstetric care wherever they live. A key step would be to encourage all UN agencies to report violations of reproductive rights to international bodies which monitor human rights conventions and treaties. In that way, nations would begin to see reproductive rights violations for what they are — a life and death matter for women and a matter of basic human rights. I urge the government to show that leadership as the international community reflects on the progress since Cairo.

• (2020)

THE HAGUE APPEAL FOR PEACE

PREPARATORY MEETING FOR 2000 REVIEW OF NUCLEAR NON-PROLIFERATION TREATY

Hon. Douglas Roche: Honourable senators, I wish to inform the Senate of two important meetings on world peace that I recently attended.

The first was The Hague Appeal for Peace, an international conference attended by 7,000 persons at The Hague and addressed by UN Secretary-General Kofi Annan. Held on the centenary of the first such conference in 1899, the conference was a jamboree of some 400 seminars, working groups and concerts.

The new Hague appeal challenges the assumptions of today's sceptics who have given up on the essential UN idea that succeeding generations can be saved from the scourge of war. The Hague appeal launched a citizens' "Agenda for Peace and Justice in the 21st Century," in which citizen advocates, progressive governments and official agencies work together for common goals to build a culture for peace.

The second meeting was a preparatory meeting of the 2000 Review of the Non-Proliferation Treaty held at the United Nations in New York. This meeting exposed, once again, the deadlock persisting between the nuclear weapon states, which refuse to give up their nuclear weapons, and the leading non-nuclear weapon states, which want the nuclear powers to honour the commitments they have made.

When the Non-Proliferation Treaty was indefinitely extended in 1995, the nuclear weapon states pledged to make systematic progress in eliminating their nuclear arsenals. Since then, NATO, containing the three western nuclear powers, has reaffirmed that nuclear weapons are "essential." Seeing that the major nuclear powers are not sincere in their commitments to elimination, India and Pakistan have joined the nuclear club.

Honourable senators, the whole non-proliferation regime today is in crisis. New arms races are underway.

Both of these meetings at The Hague and at the UN were overshadowed by the Kosovo war. The war has had inestimable

consequences in setting back the efforts for peace and security in the world and brought nuclear disarmament efforts to a standstill. Only a decade after the end of the Cold War, the hopes for a cooperative global security system have been dashed. The trust engendered by the early post-Cold War years is shattered.

We should take seriously what Secretary-General Kofi Annan said in The Hague. He said:

The ultimate crime is not to give away some real or imaginary national interest. The ultimate crime is to miss the chance for peace, and so condemn your people to the unutterable misery of war.

Honourable senators, this is a lesson Canada should take to heart in using our place on the UN Security Council to ensure that the Security Council is restored to its pre-eminent recognition as the sole source of legitimacy on the use of force. Canada must strengthen the United Nations to bring about both nuclear disarmament and a new global security architecture for the 21st century.

[*Translation*]

ROUTINE PROCEEDINGS

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

REPORT OF COMMITTEE

Hon. Marie-P. Poulin, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Monday, May 31, 1999

The Standing Senate Committee on Transport and Communications has the honour to present its

TWELFTH REPORT

Your committee, to which was referred Bill C-55, respecting advertising services supplied by foreign periodical publishers, has, in obedience to the Order of Reference of Thursday, March 25, 1999, examined the said Bill and now reports the same with the following amendments:

1.

Page 1, Clause 2:

(a) replace line 28 with the following:

"ing in value more than half of the total value"

Page 2, Clause 2:

(b) replace lines 2 and 3 with the following:

“(f) a non-profit organization in which more than half of its members are persons”

(c) replace line 25 with the following:

“officer and more than half of whose direc.”

(d) replace line 33 with the following:

“indirectly, in the aggregate more than half”

(e) replace line 35 with the following:

“shares representing more than half of the”

(f) replace lines 40 and 41 with the following:

“ly, interests representing in value more than half of the total value of the assets.”

2. Page 10: Add after line 40 the following:

“20.1 The Governor in Council may make regulations defining, for the purpose of section 21.1, the expressions “revenues generated by the supply of advertising services directed at the Canadian market” and “revenues generated by the total supply of advertising services”.”

3. Page 11: Add after line 9 the following:

“21.1 This Act does not apply to a foreign publisher who supplies advertising services directed at the Canadian market by means of an issue of a periodical, if the revenues generated by the supply of advertising services directed at the Canadian market represent, in comparison to the revenues generated by the total supply of advertising services, by means of any of those issues

(a) during the period of 18 months beginning on the day on which this Act comes into force, not more than 12 per cent;

(b) during the period of 18 months immediately following the period referred to in paragraph (a), not more than 15 per cent; and

(c) after the period referred to in paragraph (b), not more than 18 per cent.

21.2 (1) This Act does not apply to a foreign publisher who, after the coming into force of this Act, makes an investment in periodical publishing that has been prescribed under paragraph 15(a) of the Investment Canada Act as a specific type of business activity related

to Canada cultural heritage or national identity and that has been reviewed under Part IV of that Act by the Minister responsible for it and for which that Minister is satisfied or is deemed to have been satisfied that the investment is likely to be of net benefit to Canada.

(2) Subsection (1) does not apply in relation to a foreign publisher referred to in that subsection who is subject to an order made under paragraph 40(2)(e) or (f) of the Investment Canada Act.

(3) This Act applies to a foreign publisher referred to in subsection (1), other than in relation to the foreign publisher’s investment referred to in that subsection.“

Respectfully submitted,

MARIE-P. POULIN
Chair

The Hon. the Acting Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Poulin, report placed on Orders of the Day for consideration at the next sitting of the Senate.

[English]

INCOME TAX AMENDMENTS BILL, 1998

REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Monday, May 31, 1999

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-FIFTH REPORT

Your committee, to which was referred the Bill C-72, An Act to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act, has examined the said Bill in obedience to its Order of Reference dated Thursday, May 13, 1999, and now reports the same without amendment.

Respectfully submitted,

MICHAEL KIRBY
Chairman

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (2030)

CANADA TRAVELLING INDEMNIFICATION BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-64, to establish an indemnification program for travelling exhibitions.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 2, 1999.

BANK ACT WINDING-UP AND RESTRUCTURING ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-67, to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 2, 1999.

CRIMINAL RECORDS ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-69, to amend the Criminal Records Act and to amend another Act in consequence.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 2, 1999.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 2, 1999.

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-78, to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Wednesday next, June 2, 1999.

RELEASE OF 1911 CENSUS

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present a petition with 169 signatures collected by the Colchester Historical Society and Museum in Truro, Nova Scotia, in support of having the 1911 census released to the public.

DRAGON BOAT FESTIVAL

NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiry:

Hon. Vivienne Poy: Honourable senators, I give notice that on Thursday June 3, 1999, I will call the attention of the Senate to the Dragon Boat Festival.

QUESTION PERIOD

NORTH ATLANTIC TREATY ORGANIZATION

CONFLICT IN YUGOSLAVIA—

DEPLOYMENT OF GROUND TROOPS—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

In a recent article in the *International Herald Tribune*, authored by Lawrence Freedman, the principal of King's College, the War Studies Programme at London University suggested that NATO is about to launch a ground campaign in Kosovo and that the initial operation would be a fundamentally British-French one.

If that indeed is the case, Canada's contribution in its recce unit would be at the very point of any NATO offensive. Could the minister enlighten us on the government's position with regard to an offensive ground operation in Yugoslavia?

I ask the question having noted the Prime Minister's reaction to a similar or related question in the House of Commons today, but as well I took note of his response during a press conference with a visiting head of state.

• (2040)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, to my knowledge, all options are being examined. We are prepared to participate in a peace implementation force. That is what has been planned for during the past several weeks. Any questions about changes in that peacekeeping role would be hypothetical.

CONFLICT IN YUGOSLAVIA—DEPLOYMENT OF GROUND TROOPS—
BRIEFING TO DEFENCE MINISTERS—LACK OF INVITATION TO
CANADIAN REPRESENTATIVES—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, General Clark recently gave a briefing in which he made certain comments about which I am somewhat disturbed.

I have been in the position of hearing the stinging rebuke of, "Don't invite the Canadians, they have no need to know. They have no contribution to make." It is somewhat disarming to hear statements such as these.

General Clark briefed a number of NATO defence ministers on the question of a ground invasion of Yugoslavia on Friday of last week. Canada was not invited to attend. Could the Leader of Government in the Senate enlighten us as to why our government was not invited to the briefing?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I should like to have that answer as much as the Honourable Senator Forrestall.

It is true that the defence ministers of the United States, the United Kingdom, France, Germany and Italy were in Bonn last Friday to discuss the various options that might be open to NATO and its allies. Canada was not invited, involved or informed of the meeting.

Senator Forrestall: Honourable senators, does the minister agree that the position in which Canada finds itself is not acceptable?

Given the fact that Britain, France, Germany, Italy or some combination thereof would lead a ground offensive for NATO and that Canada's role as a recce would be out in front of those distinguished nations, it would seem to me that indeed we should have been invited.

Is it the position of the government that we were not surprised or were not upset about this? Did we make any inquiries or are we just letting the situation ride?

Senator Graham: Honourable senators, the fact that Canada was not invited to such a meeting is totally unacceptable. I am sure that the Minister of Foreign Affairs and the Minister of National Defence have so informed their counterparts who attended the meeting.

Canada's outstanding contribution to NATO's effort is recognized not only in our country, but worldwide as well.

Senator Forrestall: Honourable senators, may I commend the honourable senator for that response. I assure him that we stand by him wholeheartedly if that is the case.

FOREIGN AFFAIRS

CONFLICT IN YUGOSLAVIA—AIR STRIKES BY NATO FORCES—
POSSIBILITY OF CESSION—GOVERNMENT POSITION

Hon. Douglas Roche: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

Has the leader had an opportunity to take note of the comments made by former president Jimmy Carter of the United States carried in the *New York Times* where he was quoted as saying:

The decision to attack the entire nation has been counterproductive, and our destruction of civilian life has now become senseless and excessively brutal.

In light of this protest by the former president of the United States against the continued bombing of bridges, hospitals, houses and markets, the spiralling number of civilian casualties and this very delicate political moment through which we are passing, is the Canadian government able to take the position to call on NATO to stop, even for a moment, this senseless and cruel bombing that is destroying lives? Would a break in the bombing not facilitate a diplomatic effort to effect peace?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the people who could best stop the bombing are, as I have said repeatedly in this chamber, Slobodan Milosevic and his government.

I have enormous respect for the opinions of former president Carter. I have served on several election observing missions with him. We were even co-leaders of the 1993 mission observing the presidential election in Paraguay.

Having said that, NATO has taken extraordinary measures to avoid civilian casualties and has been quick to express regret over the loss of civilian life. It is important to note that the alliance has flown over 26,000 missions, including over 7,000 strike sorties and has launched over 10,000 bombs. We have had few cases of unintended strikes against civilians.

We must contrast that with the actions of the Yugoslavia government which has deliberately killed and injured thousands of civilians. They have burned hundreds of villages and they have driven over 1 million people from their homes with absolutely no apology.

The indictment of President Milosevic makes our direction clearer than ever.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a number of delayed answers. The first one is to a question raised in the Senate by Senator Forrestall on April 28, 1999, concerning the search and rescue program and possible risks of discharging fuel from Labrador and Sea King helicopters. The second one is to a question raised in the Senate on May 6, 1999, by Senator Oliver regarding health and a marketing strategy to promote the advantages of our medical system in attracting business. The third one is to a question raised in the Senate on May 6, 1999, by Senator Forrestall regarding shipbuilding and the possibility of attracting ships to operate under the Canadian flag.

NATIONAL DEFENCE

SEARCH AND RESCUE—POSSIBLE RISKS IN DISCHARGING FUEL FROM LABRADOR AND SEA KING HELICOPTERS

(Response to question raised by Hon. J. Michael Forrestall on April 28, 1999)

The investigation into the October crash continues. The cause of the crash and the exact chain of events that led to the crash have not been determined yet. All avenues and information that can be relevant to this investigation are being considered.

The fuel-dumping scenario is **only one** of the potential contributing factors being considered by the Flight Safety

investigators and the analysis of that scenario is still ongoing. However, based on the evidence gathered so far, we are taking preventive measures to reduce the risk of a similar accident from occurring again. These measures include revised emergency procedures when handling an onboard fire, revised fuel-dumping procedures, increased frequency of special inspections of the fuel-dumping system, and the replacement of fuel supply lines.

Flight safety officials are briefing the entire Canadian Forces Search and Rescue community on the progress of the investigation and the preventive measures being taken.

HEALTH

MARKETING STRATEGY TO PROMOTE ADVANTAGES OF SYSTEM IN ATTRACTING BUSINESS—GOVERNMENT POSITION

(Response to question raised by Hon. Donald H. Oliver on May 6, 1999)

The Government has a strategy that promotes all the benefits of investing in Canada including labour quality, cost levels, market access and research and development programs.

Cost advantages are an important component of this strategy. Canada's health care system is part of the cost advantage. Employer-paid statutory health benefits in Canada are 40 percent of that in the U.S.

An international Cost Comparison Study was carried out by the international accounting firm KPMG, and released on March 11, 1999. The study compared the costs of operating a typical business employing 90-120 workers, in 64 cities across 9 sectors in 8 countries: Canada, the U.S., Japan, the UK, Germany, France, Italy and Austria.

The study included 25 cities in Canada and 21 cities in the U.S., as well as three from each of the other six countries, and conclusively demonstrated all of the Canadian cities were more cost-effective than the U.S. locations, and out-performed the European and Japanese cities by a wide margin.

The study was widely disseminated in major industrial countries, particularly to their business communities and financial media, as part of a focussed enhanced marketing of Brand Image Canada."

The marketing of Canada's investment-related strengths is being systematically undertaken as one element of the Government's Investment Promotion Strategy, in place since 1996.

INDUSTRY

SHIPBUILDING—POSSIBILITY OF ATTRACTING SHIPS TO OPERATE UNDER CANADIAN FLAG—GOVERNMENT POSITION

(Response to question raised by Hon. J. Michael Forrestall on May 6, 1999)

The ship registration provisions of Chapter 16, an *Act to amend the Canada Shipping Act*, assented to 11th June 1998, which are expected to enter into force on 1st October, 1999, will facilitate the registry of ships in Canada. The former strict nationality requirements for ownership of Canadian ships have been eased. In addition, ship owners will be permitted to bare-boat charter ships under the Canadian flag. It will also be possible for owners to register ships under the Canadian flag which they are purchasing under a finance agreement.

ORDERS OF THE DAY

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

STUDY OF TABLED DOCUMENT—CONSIDERATION OF REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs (Proposals for a Miscellaneous Statute Law Amendment Act, 1998) presented in the Senate on May 13, 1999.

Hon. Lorna Milne: Honourable senators, I do not wish to take away from the committee's report, as it explains thoroughly the process taken by the committee in our review of the proposals for a miscellaneous statute law amendment act.

The miscellaneous statute law amendment program was initiated in 1975 to allow for minor and non-controversial amendments to federal statutes in an omnibus bill. Since then, eight sets of proposals have been introduced and eight acts have been passed. The 1998 proposals are thus the ninth series of proposals under this program.

The committee accepted the amendments made by the Justice Department and looked at every issue carefully. The report also makes reference to the committee's concerns over one of the proposals, in particular, and the MLSA process in general.

I wish to thank the committee members for their attentiveness to the consideration of these proposals and to the drafting of the report.

I urge all honourable senators to adopt this report.

On motion of Senator Lynch-Staunton, debate adjourned.

• (2050)

PRIVATE BILL

CANADIAN DISTRICT OF MORAVIAN CHURCH OF AMERICA—SECOND READING—DEBATE ADJOURNED

Hon. Nicholas W. Taylor moved second reading of Bill S-30, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.

He said: Honourable senators, there is a long story behind this bill, which started in 1992 when it was originally presented here. Due to deaths and failures of communication, et cetera, the bill never did go further. As an individual cleaning up some of these older bills from Alberta, I took it on.

The Moravian Church was established as a legal entity in 1909 by an act of the Parliament of Canada. The Moravian Church is actually named after a province in the modern Czech Republic called Moravia. The church was started about the time of the Protestant Reformation by John Hus. It is of the Anabaptist connection, perhaps not too theologically or philosophically inclined, similar to the Mennonite Church, and of course it has done a great deal of missionary work. It was under that line that they originally appeared in Canada and Labrador, establishing missions some years ago.

In 1952, the Parliament of Canada changed one of the clauses which had formerly precluded the church from owning any more than \$50,000 worth of property. That was amended up to \$500,000. The purpose of the present bill is simply to remove this limitation, since it is no longer needed. At the same time, the bill provides the board of elders of the church with a French name, something that was lacking in the earlier legislation.

The Moravian Church is currently operative in the area where they first had entry into Canada: Labrador. They have four congregations there and two fellowships. They also have a congregation in Toronto, and eight congregations and a church camp in Alberta, where approximately 4,000 people are members of the Moravian church.

Since coming to Labrador originally in 1769, and since the early settlers in 1895 went west, seeking religious freedom, they have taken an active part in Labrador and in Alberta in works of faith and works of goodwill in the community. Earlier this year, two of the oldest congregations marked their 100th anniversary.

With that rather short introduction, I recommend to honourable senators that we move on. If no one else wishes to debate second reading of this bill, I would recommend that it be referred to committee.

On motion of Senator DeWare, for Senator Atkins, debate adjourned.

EXCISE TAX ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Cochrane, for the adoption of the fifteenth report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill S-10, to amend the Excise Tax Act, with an amendment) presented in the Senate on December 9, 1998.—(Honourable Senator DeWare)

Hon. Mabel M. DeWare: Honourable senators, I am pleased to speak today in favour of Bill S-10, introduced by my colleague the Honourable Senator Di Nino. This bill seeks to exempt books, magazines, and other reading material from the Goods and Services Tax.

That being said, however, I must say I am surprised that we are still debating anything about the GST, given the Liberals' promise to scrap it. Canadians may recall that Paul Martin himself, before becoming Minister of Finance, once stood in the other place and denounced the GST as "a stupid, inept, and incompetent tax." My colleagues and I on this side of the chamber will try not to take that statement personally. I guess he changed his mind, because the GST is still with us.

Moreover, some of the Atlantic provinces now have an HST. In fact, it has practically been raining taxes since the Liberal government took office. By supporting Bill S-10, we could help clear the skies somewhat.

Senator Di Nino is certainly to be commended for this initiative, but I might point out that it is an initiative that should, by rights, have been introduced by someone on the government side. A bit of background is useful at this point. The design of the GST included a broad base but had exemptions for many key items, including groceries, rent, health and education. As well, universities, schools and libraries were exempted from charging GST on their services. Also included was a generous credit that left lower-income Canadians better off than before, giving them more resources to pay for such things as books.

However, despite these offsets, the door was left wide open for the GST to be changed at a future date. In particular, the former government made it clear that it would monitor the impact of the GST in a number of areas, including reading materials.

There has been a growing concern that the application of the GST to reading materials is hurting literacy in Canada. Lack of literacy is already a costly problem, especially among the less affluent, whose numbers have been growing since the current government took office. Removing the GST would make reading materials more affordable and therefore help promote literacy in Canada.

I know the statistics on the literacy situation in Canada are not news to anyone in this chamber, but they bear repeating. When I

spoke in support of Literacy Action Day earlier this year, I pointed out that 22 per cent of Canadians aged 16 and over have serious difficulties reading printed materials, and another 24 to 26 per cent can only deal with material that is simple and clearly laid out, and material in which the tasks involved are not too complex. Furthermore, according to the 1996 census, 35 per cent of Canadians have less than a high school education, including 12 per cent who have less than Grade 9, and barely half of all Canadians have any formal training or education beyond high school.

It makes me sad to think of how many individual lives are curtailed because of a lack of literacy skills. It also makes me sad that so many Canadians should be denied the opportunity to reach their full potential, and cannot take advantage of many of the benefits and opportunities that Canada offers.

This can become an intergenerational problem as well. Parents with poor literacy skills have trouble giving their children the home support they need to achieve high literacy as adults. If the parents are poor, then the challenge is even greater because they often cannot afford to buy books for their children, especially when they must pay GST on top of the price.

● (2100)

Canadians may recall that the Liberals used to think there were problems with the GST on books. For example, during the GST debate in 1990, our colleague the Honourable Senator Fairbairn spoke forcefully about exempting books from the GST. On October 30, 1990, on page 3544 of the *Debates of the Senate*, she said, for example:

A tax on books will really make that item transfer from the table of 'family necessity' to that of 'family luxury.'

She was addressing the added difficulty that taxing reading materials presents to low-income families who are trying to teach their kids to read.

I am gratified, however, to note that in September 1996 Senator Fairbairn confirmed that she would still "...very much like to see that tax on books removed." She also told this chamber that the matter was "under active discussion." Senator Fairbairn has done some fine work in the area of literacy. She has served as a voice for our many fellow citizens. However, honourable senators, it is now almost two years later. I believe the time for discussion has passed. What is needed now is action.

Honourable senators, we also have to address the impact of inflation on the tax system generally and on the GST credit in particular. While the GST credit was designed to ensure that the new tax left low- and modest-income Canadians better off than the old, hidden, federal sales tax, that is less and less the case every year. It also means that one of the original arguments for not exempting books — namely, the offsetting value of the credit — is less and less valid every year.

Honourable senators, it is not enough simply to say a lot of fine words about literacy that a lot of Canadians cannot even read when they are written in Hansard. What we need is some more concrete action on this critical issue.

The bill before us gives us an opportunity to take real action on literacy. It is one that we cannot afford to ignore. I am supporting Bill S-10 because I support literacy, and I urge all honourable senators to do the same.

Some Hon. Senators: Hear, hear!

Hon. Consiglio Di Nino: Honourable senators, I should like to ask a question of the honourable senator.

One of the comments that keep arising in relation to the Liberal promise to zero-rate the GST on reading material is that with today's technology there seems to be more dependence on high-tech computers, CD-ROMs, and so on. Does the fact that we are using more of these high-tech tools as opposed to the actual written word on paper — an argument with which I do not agree — make a difference? Is it still as important to be able to read in order to educate oneself, or is it better to improve one's literacy through the high-tech methods that we have today?

Senator DeWare: That is interesting. According to an article in the paper the other day, if you cannot read, there are a lot of things that you cannot do. You cannot even do math.

One of our editorial writers wrote an article about going to a fast food place — I think it was Tim Horton's. He bought a doughnut and a cup of coffee and it cost \$1.98. He gave the young fellow behind the cash a \$20 bill. The cashier looked flustered and confused and he said to the man, "Can you tell me what your change will be, please? I am not very good at math." This was a high school student.

That shows that, if you cannot read, you cannot do math problems either, because you must be able to read to do math. You can have your calculators and computers and all that support, but it does not work unless you can read.

Senator Di Nino: It is still a factor that you must be able to read what is on a computer. You must be able to read a computer instruction book. Is it not a fact that, if you want to improve your working skills, you must be able to read the manuals that are prepared, and so on? Is it still not an important message that we, as parliamentarians, should send Canadians that, first, we want to keep our promises, and, second, we believe in literacy even though we are in a higher tech society?

Senator DeWare: I do not think high tech has anything to do with it. We must get back to the basics of reading and writing in this country. We have young people entering university and our professors are telling us that they cannot write. We must absolutely learn to read and write.

On motion of Senator Carstairs, debate adjourned.

SECURITY AND INTELLIGENCE

CONSIDERATION OF REPORT OF SPECIAL COMMITTEE—
MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kelly, seconded by the Honourable Senator Beaudoin, for the adoption of the Report of the Special Committee of the Senate on Security and Intelligence, deposited with the Clerk of the Senate on January 14, 1999;

And on the motion in amendment of the Honourable Senator Carstairs, seconded by the Honourable Senator Fairbairn, P.C., that the Report be not now adopted, but it be amended by deleting recommendation No. 33; and

That recommendation No. 33 be referred to the Standing Committee on Privileges, Standing Rules and Orders for consideration and report.—(Honourable Senator Corbin)

Hon. Eymard G. Corbin: Honourable senators, the report of the Special Senate Committee on Security and Intelligence was tabled in January of this year. Senator Kelly, the chairman of the committee, and Senators Bryden and Andreychuk have spoken to it since that time. I now want to briefly discuss the emerging issue of cyber-terrorism and how it is relevant to Canada. This is a new and evolving challenge that had not been addressed by the two previous Special Senate Committees on Security and Intelligence, which reported their findings in June 1987 and July 1989.

As you may well know, cyber-terrorism is the criminal intrusion by individuals upon the computer systems of governments and private infrastructures with the intention to do harm and damage. There are essentially two forms of cyber-attacks: those that are random and benign in intention, and those that are organized cyber-invasions that maliciously target and systematically seek to damage a specific site and cause total havoc. Both have the potential to do considerable damage and chaos by debilitating the sound functioning of key infrastructures that are vital to the smooth operation of business, economy and government and, therefore, ultimately the peace and security of the citizenry.

Targeted entities could include telecommunications systems, power generating and distribution systems, banking and finance, transportation, security, military, police systems, and so on. The fact that some of these function interdependently points to the vulnerability of our technology. The extent to which cyber-terrorism is taken seriously depends a great deal on who is making the assessment. However, based on past experience and tests, it is clear that our critical infrastructures are not immune to the threat, which may be internal by virtue of a serious lack of awareness on the part of the owners and operators of these systems.

One factor that has enabled the problem to evolve and become such an immediate concern is globalization or, if you wish, the interconnectedness of the facilities. In a dynamic global environment that overrides political boundaries, the stage is already set for successfully engaging in cyber-terrorism. Canada, an industrialized nation highly reliant upon technology, must prepare itself to deal with the magnitude and the potentially nightmarish complexity of the issue.

It is important to understand that cyber-threats to national security do differ from the conventional and popular understanding of what terrorism is all about: bombs, hostage-taking, kidnappings, demolition of buildings, poisonous gases in subways, et cetera. Cyber-terrorism itself is evolving and may try to keep a step ahead of attempts to defeat it; hence, the persistent nature of these threats. It is a rapidly evolving problem that necessitates the implementation of realistic policies that may require constant re-examination.

During our hearings, it was observed that the risk of a cyber-attack indicates a weakness in the so-called "seamless web" of security. The recommendations recognize the fact that cyber-terrorism is no longer a futuristic problem that can be dealt with after the fact. Rather there is a need to focus on preventive measures now by taking a proactive approach. It is in this spirit that the committee has proposed a number of recommendations.

Recommendation 16, for example, states:

The committee urges the Government to give immediate and careful attention to the creation of a capability to assess and reduce vulnerabilities in critical infrastructures and to prevent or respond to physical and cyber-attacks. This initiative should involve governments at all levels and the private sector and should address both public and private infrastructures.

Recommendation 17 proposes:

...that the government consider amending the Criminal Code to provide specific offences and penalties to deal with cyber-attacks.

As it stands now, cyber terrorism is treated in the Criminal Code as mischief under subsection 430(1.1) regarding mischief in relation to data, and under subsection 430(2), the penalty provision in the Criminal Code. The committee recommends that this classification be changed so that cyber-crime is recognized as a distinct offence with corresponding and appropriate sanctions.

Recommendation number 18 states:

The committee urges the Government, law enforcement agencies and security and intelligence agencies to actively investigate and explore methods and techniques to overcome the policing and security problems posed by emerging encryption technologies.

Outside of the work undertaken by this committee, the government and the private sector have done much to raise

public awareness about the veritable threats — blackmail being one of them — posed by cyber-terrorism.

It is very much an issue that affects everyone. Factors such as the 1998 ice storm and the Y2K bug have exposed our vulnerabilities and allowed us to partially experience first-hand the devastating ramifications of cyber-problems in general, whether accidental or for lack of foresight.

It must be understood, however, that this is not strictly a Canadian problem where mutually exclusive responses will suffice. It is a problem of global proportions which necessitates close cooperation and coordination if we are to develop viable and effective solutions.

In this respect, the American experience in dealing with cyber-terrorism is perhaps the most relevant to Canada. A significant amount of documentation has been generated by American sources since the United States also takes this problem very seriously. For example, presidential directives of 1995 and 1998 have set the stage for concerted measures to address the vulnerability of government and private sector critical infrastructures.

As well, in 1998, the Centre for Strategic and International Studies released a report that discusses the problem of cyber-terrorism in detail, and proposes recommendations to deal with it.

Compared to Canada, the United States appears to have a much more elaborate strategy in place. While Canada may have an idea on what needs to be done and how to attain these objectives, it has been suggested that it is important to recognize our obligations vis-à-vis the United States in terms of our mutual security responsibilities and obligations. In other words, we cannot go it alone, and neither can the U.S.A. nor our traditional allies. In order to preserve the quality of mutual interactions, Canada should continue to strive to maintain nothing less than the highest standard of security. Otherwise, laxity and inaction could negatively impact on the trade investment and security practices between countries. Implementing timely and effective measures is not only beneficial to Canada in the long run, but is also a matter of imperatively fulfilling our share of responsibility in the maintenance of the highest level of security.

In our unceasing efforts to combat cyber-terrorism, we need to be constantly aware that the dynamics of the threat it poses are different from those of other security issues.

I now want to visit two important factors relating to the design of a counter-cyber-terrorism strategy. First, those preventive measures that would be important to the overall strategy may have the potential to infringe upon the privacy rights of individuals. Security agencies can already access personal information such as, for example, an individual's social security number, driver's licence number, credit card account numbers, bank account numbers and so on — at least indirectly. To obligate individuals to further surrender additional personal information would infringe on privacy rights. The concern would then become whether it is necessary and safe to entrust members of the security community with so much information.

In terms of electronic encryption, a similar problem must be confronted. While security officials seek mandatory access to encryption keys, the principle of privacy does not accommodate such an invasive approach to information distribution.

A second important factor that distinguishes the menace of cyber-terrorism from other security problems pertains to the implementation of a strategy. Part of the reality of the electronic age in which we now live is that it is the younger, knowledgeable generation of individuals who possess the expertise necessary to deal with the problem of cyber-terrorism. They understand the problems and are at ease with the electronic culture because they speak its language. We must accordingly alter our traditional approach and make the most of these circumstances. Trust must be part of the solution, and adequate programs should be put in place to keep Canadian-trained specialists here in Canada. We must put a stop to the brain drain toward our neighbour to the south.

Before I conclude my remarks, I would like to clarify the meaning of the last recommendation made by our committee, because it seems that Senator Carstairs' amendment to delete the recommendation and refer it to the Rules Committee reflects a misunderstanding or incorrect interpretation of the proposal. Quite simply, our committee recommended that, for the future, there should be established a security and intelligence committee that would periodically oversee the work of security agencies charged with surveillance, threat assessment and preparedness.

As it stands now, the Security and Intelligence Review Committee reports only to a minister of the government, who then decides what information, if any, to convey, usually in a pretty bland form, to Parliament. In a parliamentary democracy, however, the role of Parliament should ultimately take precedence. This matter has been much debated over the years, and the government has steadfastly refused to accede to the wishes of many parliamentarians.

I personally, strongly believe that the surveillance and review agencies are not the ultimate democratic safeguard. I believe that there is too much of a propensity on the part of government to delegate to external agencies what Parliament itself has the mandate to do, and should be doing. The Senate is in an ideal position to perform this task in a responsible, non-partisan fashion, as it has demonstrated by the three special reports produced over the past 12 years.

The committee that has been proposed would comprise a small number of senators and would be activated about once every five years or, if you wish, once in the life of a Parliament, or on an ad hoc basis following a major security incident or crisis.

• (2120)

I think it important to ensure that the security organizations in Canada are held directly accountable to Parliament, and not solely to audit agencies on a periodic basis. That is no reflection on the individuals currently serving in these positions, who seem to be taking their mandate seriously.

Though I do not support Senator Carstairs' proposal to delete the recommendation — I wish she would let it stand in the report as we have presented it — I would certainly support an initiative by way of an amendment to the rules governing the establishment of committees to enact our recommendation by adding this new committee to the list. It could even be styled "The Special Ad Hoc Committee."

I want to end my remarks, honourable senators, by disassociating myself completely from the caricatural comments made by Senator Bryden in the opening remarks of his speech upon the chairperson of the committee, the Honourable Senator Kelly. I do not think they were in any way funny or humorous. They certainly were not flattering.

Senator Kelly is an honourable man, who, amongst all current parliamentarians, whether elected or appointed, has the best and the fullest understanding of what all of these security and intelligence matters entail. He is highly respected by the Canadian intelligence community, enjoys their confidence, and is regularly sought out to participate in security seminars and conferences. He alone in this institution has thrice convinced the Senate, sometimes in the face of resistance and procrastination, to set up these special committees over a period of 12 years. He has my respect. He has done Parliament and this country a great service through these initiatives and recommendations. When he, regrettably, will have to leave the Senate next year, he will do so in the full dignity of a job well done.

Some Hon. Senators: Hear, hear!

On motion of Senator Pépin, debate adjourned.

SECURITY INCIDENT AT VANCOUVER APEC CONFERENCE

MOTION TO ESTABLISH SPECIAL COMMITTEE—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare:

That a Special Committee of the Senate be appointed to examine and report upon the conduct of the Prime Minister, the Prime Minister's Office, the Minister of Foreign Affairs, the Solicitor General and the Privy Council Office in the security arrangements for the Asia-Pacific Economic Cooperation Conference held in Vancouver in November 1997, and any issues subsequently arising therefrom. In particular, the allegations that political motivations rather than security considerations were used unlawfully which resulted in the violation of the constitutional right to freedom of expression, freedom of assembly and freedom of association of certain Canadian citizens and the suppression of legitimate protest.

That seven Senators, nominated by the Committee of Selection act as members of the special committee, and that three members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses under oath, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee have the power to engage the services of such counsel and other professional, technical, clerical and other personnel as may be necessary for the purposes of its examination;

That the political parties represented on the special committee be granted allocations for expert assistance with the work of the committee;

That it be empowered to adjourn from place to place within and outside Canada;

That the committee have the power to sit during sittings and adjournments of the Senate;

That the committee submit its report not later than one year from the date of it being constituted, provided that if the Senate is not sitting, the report shall be deemed submitted on the day such report is deposited with the Clerk of the Senate.—(Honourable Senator Kinsella)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, although I moved this motion back in March, I have not had the opportunity to speak to it until now. Today, I wish to underscore some of the parameters of this matter which I believe speaks fundamentally to our responsibility as parliamentarians.

It is not the policing conduct of the RCMP that is the substantive component of this motion. Honourable senators know that the RCMP Public Complaints Commission is inquiring into that aspect. In other words, the RCMP Public Complaints Commission is currently examining the conduct of the police. Rather, honourable senators, the mandate which this motion is seeking from the Senate is for a Senate investigation that will examine questions that speak to the conduct of politicians, and to the behaviour of officials of the Government of Canada.

The parameters of the proposed Senate investigation would include the question of accountability — in particular, the accountability of ministers to Parliament. Is the Government of Canada above Parliament? Is the executive branch of government to be immune from the scrutiny of Parliament?

Honourable senators, are the actions of ministers and officials not to be accounted for? Are they not to be held responsible to Parliament for their actions? Is it not the right of Parliament, honourable senators, to inquire into the policy base upon which ministers and officials act?

I submit that it is indeed the duty of Parliament, and it has been the hallmark of the Senate, in its investigations, to disclose the public policy foundation of the programs, the activities and the conduct undertaken by the Government of Canada.

Honourable senators, there is a body of Canadian opinion which suggests that the real APEC Vancouver scandal rests not in the issue of RCMP conduct — which, as I said, is before the RCMP Public Complaints Commission — but, rather, in the changed Canadian foreign policy. Some have charged that what emerges from the Vancouver APEC documents — those which have been made public — is a story of a country being forced to face up to its changed place in the world. It is a story of money and power, and of the global economy. It is a story that, for Canadians proud of their country's history, is often painful to read.

In the Pearson-era foreign policy paradigm, a country like Indonesia would have been perceived as the needy partner, a developing country in need of our patient tutelage, and starved for our economic largesse. According to the rules in force in the global economy circa APEC 1997, however, it was not Canada but rather Indonesia, with its fast-growing emerging market, that was the economic powerhouse. Canada, with its continued reliance on natural resources, was the workhorse, which is precisely why Canadian officials had to work so awfully hard to win Indonesia's favour.

• (2130)

The Senate investigation envisaged in this motion, unlike the other inquiry into the Vancouver APEC affair, would have as its mandate the assessment of the conduct of Canadian officials scrambling to comply with ex-president Suharto's wishes in the light of the policies of Foreign Affairs and International Trade.

Honourable senators, we all know that last fall was uncomfortable for the government, particularly those matters falling under the purview of the Solicitor General. We were all witness to the series of events that unfolded, including the resignation from the government of the then solicitor general and the resignation of members of the RCMP Public Complaints Commission. Then we saw just before Christmas the chair of the RCMP Public Complaints Commission, Shirley Heafey, announcing the appointment of the Honourable Ted Hughes to be the chair of the new panel inquiring into the allegations of misconduct by members of the RCMP. At that time, we wished Mr. Justice Hughes every good wish and speed with his important work. However, let it be underscored that Ms Heafey in her press conference announcing the appointment of Mr. Justice Hughes stated that "The Prime Minister is not my mandate. I'm not going to pretend anything else."

All fall we had the charade, the front, the mask and facade presented to us by the government side that the RCMP Public Complaints Commission would look into all of these matters that speak to the conduct of officials and the conduct of ministers. Of course, we attempted to point out that the RCMP Act, the act relating to the Public Complaints Commission, does not give that mandate to the commission. The mandate is to inquire into the conduct of the RCMP only.

Honourable senators, we know what has unfolded, and we believe that for parliamentarians the critical question is that of ministerial accountability. A matter of serious public policy and a shift in the very paradigm of national public policy falls very much within the purview of a parliamentary committee, such as the one envisaged in this motion.

Part of our debate, which I am confident will lead to the adoption of this motion — unanimously, I hope — centres on this issue of accountability. I should like to make a few observations about that, for it is one of the oldest features of our political tradition. Indeed, accountability is the cornerstone of Canada's parliamentary democratic system.

Under the Westminster model, government has always been accountable to Parliament and, by extension, to the electorate. After all, if politicians were not accountable to the people who elected them, would we truly have a democracy? Government actions should never be treated as being outside the purview of Parliament, for Parliament is ultimately responsible to the highest court in the land, the people of Canada, and must, therefore, exercise its duty to hold the government accountable.

Professor Franks, an eminent scholar on the nature and Constitution of our Canadian parliamentary system, warns of the dangers that a highly centralized executive poses to the integrity of parliamentary institutions. In his book *The Parliament of Canada*, he notes that their "...enormous centralized powers...are more like those normally associated with an autocratic dictatorship than with a democratic government." Indeed, honourable senators, the pepper-spraying of the APEC protesters was a scene more reminiscent of Suharto's Indonesia than Vancouver, Canada.

Professor Franks points out that given this potential danger, responsible government must entail ministers to be responsible and accountable to Parliament. To accomplish this task, he notes that "Parliament...is the central forum for discussion about the use and abuse of political power... Government and Parliament live and die together. They are bound to each other."

The duty of the government — the cabinet, led by the Prime Minister — is not to consider itself above the examination of Parliament. This principle has long been part of our tradition, sadly often forgotten, particularly by those who inhabit the halls of the Langevin Block.

Professors Van Loon and Whittington, whose work on Canadian government and politics is of international reputation, maintain that the political audit of the government is influenced

by the expectation that "...the scope of Parliament's criticism of government is virtually unlimited."

Honourable senators, what is done in both Houses of Parliament, in this chamber and in the other place, and in particular what is done that comes from the benches of the opposition, must be understood. The criticism that very often comes, even from the government sides of both chambers, must be understood to be speaking directly to this fundamental issue of all parliamentarians wanting to hold the government accountable to the Parliament. After all, the government stands apart from the legislative branch. Each member of the Senate and of the other place, as individuals representative in the two Houses, has that sacred duty of testing and measuring the actions and conduct of members of the government against the standard that we hold to be fundamental in our country.

Honourable senators, the task in which we propose to engage by creating a special committee of the Senate is thus of great importance. There is nothing frivolous or vexatious about it, for its purpose is to safeguard the very integrity of Canada's democratic system and the institutional credibility of Parliament itself. The effectiveness and dispatch with which this chamber holds the government to account in this instance, for its APEC summit actions, is of the highest order of importance because the issues involved go right to the heart of Canadian parliamentary democracy itself.

• (2140)

This upper house, under the present Constitution, a Constitution which has not performed too badly over the past 133 years, given all the warts, bumps and wrinkles, we still have a system of governance that has yielded a degree of rights and freedoms which is the envy of the world. Perhaps there is something good about our system. The reality is that, in the here and now, this house is precisely the place where an in-depth investigation into such serious allegations as have been raised against the Prime Minister and his staff, and certain members of his cabinet, should proceed. We have a duty to Parliament as a whole, and to the people of Canada.

The Hon. the Acting Speaker: Honourable Senator Kinsella, I must advise you that the time allocated has now elapsed. If the Senate gives its consent, you can certainly continue.

Honourable senators, is there consent?

Hon. Senators: Agreed.

Senator Kinsella: In light of your kindness, and in light of the time of day, and taking into consideration counsel from my honourable friend from Alberta, the issue that is fundamental to this motion is the issue of accountability. That is the argument I hope others will engage in as we debate this motion.

Hon. John B. Stewart: Would the honourable senator permit a question?

Senator Kinsella: Yes.

Senator Stewart: Honourable senators may remember that when the Senate proposed to set up the Special Senate Committee on the Pearson Airport Agreements, Senator Oliver spoke in favour of that motion. At that time, I asked him about the problem of examining witnesses under oath. His answer, I thought, was quite unsatisfactory. Nevertheless, the committee was established.

In the course of the work of that committee, it became clear that there was a conflict, as I had anticipated, between the oath administered by the committee, on the one hand, and a couple of other oaths: one, the Privy Councillor's oath and the other the oath taken by public servants under the Official Secrets Act. In fact, the situation was so unsatisfactory that Senator Kirby and Senator MacDonald wrote a description of how the unwillingness of some persons to break their oaths in order to conform with the oath administered by the committee made it difficult to conclude satisfactorily on some points. That material is available to us.

I notice that in this motion it is proposed that the committee have power to examine witnesses under oath. Have we any reason to believe that in this instance we will overcome the problem of conflict of oaths any better than we did in the case of the Pearson inquiry?

I remember walking back from the Victoria Building one day with Senator MacDonald. I said to him that the truth of the matter is that in law there is no solution to that problem. It will work in the House of Commons if the majority in the House of Commons is prepared to tell the government that you either answer these questions — you, the ministers or you, the top public servants — or we will not vote you your appropriation bill. That is how it works. The appropriation of money is the key to responsible government. Unfortunately, this chamber, regardless of the Constitution, normally does not wish to use that power.

My question to Senator Kinsella is: If this committee were set up, would it be again an exercise in frustration, insofar as the matter of oaths is concerned?

Senator Kinsella: Honourable senators, I thank Senator Stewart for raising a very important issue that can challenge all committees of the Senate if they go that route. I do not know the answer to the question. However, I do know about the one example, to which Senator Stewart has alluded, where the clash occurred. I believe that the study which I am envisaging in this instance could very well be accomplished without the need of the committee to examine witnesses under oath. I would be pleased to look at an amendment to my motion to obviate that problem.

That having been said, and to open up within parenthesis another issue, perhaps we should look outside the context of a particular committee that is being sought to this question of the conflict: the conflict that individual Canadians, all acting in good faith and, in their minds, not only in the public interest but, whether it be security matters, whether it be cabinet issues of confidentiality, very much part of our tradition as well, and whether or not that kind of an oath absolves or excuses a witness from being examined.

There must be precedent that could be examined in court situations. People who are called, whether before civil courts or criminal courts, might find themselves in very much the same position. I do not know how that is resolved in our court system. I would be happy, as far as this motion is concerned, if that was the only obstacle, to remove that particular provision.

Hon. Lowell Murray: Could I ask the honourable senator whether he would cause to have some research done, either by his own staff or by the parliamentary library, as to parliamentary precedents for hearing evidence under oath? I am sure it has happened before. We are familiar with the the inquiry into the Pearson airport agreements in the Senate. I say, without knowing for certain, that it has probably happened at House of Commons committees as well.

I am always puzzled as to why a parliamentary committee would consider it necessary to take evidence under oath. Surely, lying to a parliamentary committee is, by definition, contempt of Parliament, is it not, and therefore subject to even more severe penalties than perjury would be?

Senator Kinsella: I thank the honourable senator for that question. Yes, I will undertake, on behalf of my colleagues, to have some research done on this matter. It is not only the issue of witnesses who come before our committees being examined under oath; there is also the question of committees summonsing Canadians because it is an interference — the summons, in particular — with the freedom of a Canadian.

I know in the recent past one of our own committees undertook to have a witness summonsed, and it was not even a decision of the committee, let alone a decision of the chamber. It seems to me that if we are interfering with the freedom of individual Canadians by the power of a summons, that, in and of itself, is also a serious matter that should be supported by some good research as well.

To your point on the oath, yes, we will ask our researchers to look into that.

Senator Murray: While you are at it, ask them to look into the privileges that pertain to witnesses before parliamentary committees. I have laboured long under the impression that the testimony of witnesses who have appeared before parliamentary committees, whether under oath or not, is privileged in the same way that yours or my remarks in such a forum would be.

• (2150)

Senator Kinsella: Honourable senators, Senator Murray raises another very important point that was an issue before the Standing Senate Committee on Agriculture and Forestry about a fortnight ago. If I understood it correctly, an eminent scientist was wanting to be summonsed so that he could give testimony. Some other witnesses appeared before that committee and made statements which led one to conclude that they felt that if they said too much they would be victimized through some form of retaliation. In this instance, some of those witnesses were employees of the Crown, something which should have horrified all members of that committee.

The privileges and freedom from retaliation is something that we should be taking very seriously, and which should be the subject of some data-gathering as well.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I wonder if the Honourable Senator Kinsella is familiar with Derek Lee's recent book, entitled, *The Power of Parliamentary Houses to Send for Persons, Papers & Records: A Sourcebook on the Law and Precedent of Parliamentary Subpoena Powers for Canadian and Other Houses*. If so, did he find within that book any help with this dilemma?

Senator Kinsella: Mr. Lee was kind enough to send a copy of his book to me. The last pages of it deal with this very issue. I commend the book to all honourable senators.

The Honourable Senator Stewart's question was fortuitous in that it allowed us to put on the record some of the other issues that have been like a toothache to many of us.

On motion of Senator Carstairs, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING
TO PERSONS COMING UNDER JURISDICTION
OF DEPARTMENT OF VETERANS AFFAIRS

Hon. Lowell Murray, for Senator Balfour, pursuant to notice of May 13, 1999 moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to undertake a study on issues relating to persons coming under the jurisdiction of Veterans Affairs Canada including the availability, quality and standards of all benefits available to such persons;

That the committee be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings;

That the committee be empowered to present its final report no later than March 31, 2000; and

That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

He said: Honourable senators, as chairman of the Standing Senate Committee on Social Affairs, Science and Technology, I want to inform you that our Subcommittee on Veterans Affairs has elected a new chairman. He is Senator James Balfour. Honourable senators will be aware that our former colleague Senator Orville Phillips was chairman of the subcommittee until his retirement from the Senate on April 5 last.

Honourable senators will also be aware that the Subcommittee on Veterans Affairs has done outstanding work on behalf of veterans. It has conducted studies into various specific issues, the most recent of which was the delivery of health services to veterans.

The purpose of the motion is to renew the rather more general mandate of the subcommittee to study, in general, issues relating to persons coming under the jurisdiction of Veterans Affairs Canada.

I commend the motion to your support, honourable senators.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

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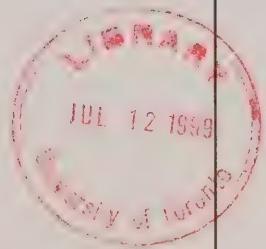
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OFFICIAL REPORT
(HANSARD)

Tuesday, June 1, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

This issue contains the latest listing of Officers of the Senate, the Ministry,
Senators and Members of the Senate and Joint Committees.



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Debates: Chambers Building, Room 943, Tel. 995-5805

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THE SENATE

Tuesday, June 1, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

MR. ELIE WIESEL

HONORARY DOCTORATE FROM UNIVERSITY OF MONTREAL

Hon. Gérald-A. Beaudoin: Honourable senators, last week, the University of Montreal granted an honorary doctorate to a famous writer, Elie Wiesel, who was awarded the Nobel Peace Prize in 1986. I am fascinated by this thinker, essayist, scholar and philosopher.

Upon receiving his doctorate, Elie Wiesel remarked "If evil rears its ugly head, it must quickly be beaten down." As far as he is concerned, this is the eleventh commandment. He added "If we had acted immediately, we would have saved lives in Bosnia, Rwanda and Iraq."

This man is a listener. He has an open mind. His life is testimony to his deep thinking.

Elie Wiesel is currently on a mission as a special observer to Kosovar refugee camps, in the Balkans. His task is not an easy one. The debates continue. The parliamentary assemblies in our democracies are looking at this issue and at possible solutions. In my opinion, sending this great writer on such a mission is a good idea. We wish him the best of luck in his undertaking.

[English]

INTERNATIONAL TRADE

NEGATIVE EFFECTS OF FREE TRADE AGREEMENTS

Hon. Eugene Whelan: Honourable senators, I feel that I must express my concern over the loss of our Canadian sovereignty that has occurred as a result of our entering into world trade agreements.

I certainly want to go on record as not being against freeing up trade restrictions as much as possible. However, I do not feel that free trade agreements must be entered into at any cost, thereby trading away our right to aid our citizens and to protect their health, as well as their environment. I agree fully with our Minister of Trade, Sergio Marchi, who declares that "Trade

liberalization does not mean sameness, nor that a country must sell its soul to sell its goods."

It would appear that, in the case of NAFTA and the WTO, we may have already sold our soul. As an example, we have Canadian oil companies putting the additive MMT in our gasoline, even though there is a distinct possibility that fairly low levels of manganese in the blood can have detrimental health effects, in particular on children, and on the elderly. Yet under NAFTA, we cannot ban the importation or use of MMT in our country.

We find the same thing occurring with the use of rBST to increase milk production. We have not licensed rBST for use in Canada because of concerns over its detrimental effects on the health of animals. However, because we cannot yet prove conclusively that the long-term use of milk produced in such a way may damage humans, we cannot ban the importation of milk products made from rBST milk. At the same time, we are questioning the European Union decision to ban Canadian beef because we have approved the use of growth hormones in our production, and they have not.

Under a recent ruling of the WTO, we find that no longer can we use our milk marketing boards to set the price we receive for milk consumed in Canada and still export milk at a competitive price. In other words we must not only reduce our exports but also increase access for imported milk and milk products.

• (1410)

I would suggest that, as we enter into further trade negotiations, we must be careful not to agree to any terms and conditions that would limit our sovereign right to assist our producers or to protect our environment. If we do not safeguard these rights, we will find ourselves at the mercy of multinational corporations to treat us as they wish. They will have little regard for environment or the health of our people in their pursuit of maximum profits.

We must make it very clear to our negotiators that we do not wish to be the testing ground for environmentally destructive production methods, nor do we wish our people to be the guinea pigs for the testing of genetically modified foods. They must be made to understand very clearly that we do not want free trade at any price.

FINANCIAL PRIVACY CODE

Hon. Donald H. Oliver: Honourable senators, I rise to again draw your attention to a subject which I have discussed many times before in this chamber: a bank client's right to privacy regarding personal financial information.

We have had the discussion many times within the Senate Banking Committee regarding the possibility of banks using personal financial information if and when banks are allowed into other modes of business, such as selling insurance directly from their branches or the leasing of automobiles. However, it took a client of the Royal Bank, through correspondence that he directed to the clerk of the Senate Banking Committee and, in turn, to all members of the committee, to bring a strong dose of reality to the sometimes academic discussion of the right of privacy of financial information.

The client agreement, which accompanies the issuance of the Royal Bank Interac card, states that that agreement applies from the time of the first transaction in which the bank card is used. It also says that the client has received and read the "use agreement" and that the client also understands and agrees with the bank to every part of the client agreement. Therefore, the client, by the mere use of the card, is deemed to have consented to, understood and agreed with anything contained in that agreement.

The portion of the agreement which concerned the person writing to the Banking Committee dealt with the "Collection and Use of Information." These sections authorized the bank to obtain information from credit bureaus and other financial institutions. The client consents to the bank giving information gained by it to a credit bureau and other financial institutions, or the bank itself may use the information to determine the client's financial situation. All of this would happen without the client's knowledge or explicit consent.

The situation was brought to the attention of OSFI, the Office of the Superintendent of Financial Institutions. Their response indicated that they wanted to wash their hands of the issue of privacy by stating:

Banks administer their own internal policies and guidelines with respect to general business practice and their daily affairs.

The Royal Bank's response was even more disheartening, which was to congratulate the bank on the Canadian Bankers' Model Privacy Code. It goes on to say that the portion of the client agreement dealing with privacy:

...is based on the Bank's privacy standard...and the Bank's current business practices.

Honourable senators, we need to do better than this in protecting the privacy of Canadians from abuse of their private and personal information by financial and other institutions.

I look forward to our study of Bill C-54, and the appearance before the Standing Senate Committee on Banking, Trade and Commerce of the Privacy Commissioner, who for many years has advocated that his office act as supervisor of the application of the various privacy codes developed by financial and other institutions.

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 2, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

CHILDREN OF DIVORCE

NOTICE OF MOTION OF AFFIRMATION AND RESOLUTION IN SUPPORT OF ENTITLEMENTS

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1) and 58(1)(i), I hereby give notice that Thursday next I shall move:

That the Senate of Canada uphold its unique, historical, constitutional and parliamentary interest and role in divorce, and in granting bills of divorce, as demonstrated by the Senate's former standing Committee on Divorce, and that the Senate continue to assert its special role and interest in the condition of the children of divorce;

That the Senate upholds that the Senate has vigorously renewed this interest by its actions upholding the entitlements of children of divorce to the financial support of both parents according to respective abilities, and by the Senate's actions to amend Bill C-41, an Act to Amend the Divorce Act and other related Acts, amended by the Senate on February 13, 1997, concurred in by the House of Commons on February 14, with Royal Assent on February 19, 1997;

That the Senate upholds that a corollary to the Senate's passage of Bill C-41 in February 1997 was the will, agreement and attention to constitute a joint committee of the Senate with the House of Commons to examine the previously unstudied and neglected question of the condition and functioning of children, within the hitherto established regime of custody and access in divorce;

That the Senate affirms that this Special Joint Parliamentary Committee of the Senate and House of Commons was constituted by a joint resolution, moved in the Senate on October 9, 1997, and adopted in the Senate on October 28, 1997, and moved in the House of Commons on November 5, 1997, and adopted in the House of Commons on November 18, 1997;

That the Senate affirms that this Special Joint Parliamentary Senate-House of Commons Committee on Child Custody and Access in divorce traveled across Canada, held numerous sittings, heard testimony from over 520 witnesses and reported to the Senate on December 9, 1998, and to the House of Commons on December 10, 1998, by its report, "For the Sake of the Children";

That the Senate affirms that this Special Joint Parliamentary Senate-Commons Committee concluded that upon divorce, the children of divorce and their parents are entitled to a close and continuous relationship with one another and, consequently, recommended that the Divorce Act be amended by Parliament to express this joint nature of parenting by inserting the legal concept "shared parenting" in the Divorce Act, and also by including in the Divorce Act's definition of the "best interests of the child", the importance of the meaningful involvement of both parents in the lives of the children of divorce;

That the Senate affirms that on May 10, 1999, six months after the committee's report to both Houses of Parliament, more than two years after the passage of Bill C-41 in February 1997, the Minister of Justice, Anne McLellan, gave her ministerial response to the committee's conclusions and recommendations in her paper entitled "Government of Canada's Response to the Report of the Special Joint Committee on Child Custody and Access: Strategy for Reform," having fully accepted the Committee's major recommendations, and having accepted that the divorce law regime currently in force is wanting and needing correction, she then proposed a three-year delay to May 1, 2002, for her legislative action to correct the obviously wanting divorce law regime;

That the Senate asserts that the recommendations of a committee of Parliament, the Highest Court of the Land, the Grand Inquest of the Nation, is the highest recommendation of the land, and that such advice and counsel of Parliament is the most complete, representative, constitutional, and the most efficient form of advice a government can heed; and that the Senate asserts that the responsible Minister and the Ministry owe a moral, a political, and a constitutional duty to Parliament to accept and follow the advice of Parliament;

That the Senate asserts that the Parliament of Canada, by its own study, examination and conclusions, is now seized of the knowledge that the divorce law regime currently in force in Canada is defective, insufficient and even harmful to the needs of children, their parents and their families; and that the Senate, being seized of this knowledge of the inadequate state of the divorce law regime, has a moral imperative and a bounden parliamentary duty to correct the situation forthwith, because possessing the knowledge of the children's plight and ongoing damage to them, Parliament's continued inaction and neglect is unconscionable;

That the Senate upholds the enormous public support of the people of Canada for the entitlements of the children of divorce to meaningful involvement with both their parents and families, and that the Senate further upholds all the children, their parents, and their families afflicted by the current divorce law regime; and

That the Senate of Canada, by virtue of the doctrine of the *parens patriae*, and the Senate's duty as stewards of the children of divorce, resolves to defend and protect the children of divorce; and that the Senate resolves to vindicate the needs and entitlements of the children of divorce to the emotional and financial support of both parents; and that "for the sake of the children" and in the "best interests of the child", the Senate resolves that the responsible Minister, Minister of Justice Anne McLellan, should cause a new divorce act to be introduced in the Senate or in the House of Commons, to implement, without delay, these recommendations of the Special Joint Committee on Child Custody and Access.

QUESTION PERIOD

PRIME MINISTER'S OFFICE

ALLEGED FINANCIAL INTERESTS OF PRIME MINISTER IN VARIOUS ENDEAVOURS—REQUEST FOR PUBLIC REVIEW— GOVERNMENT POSITION

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. Hardly a week goes by without new revelations about the Prime Minister's direct involvement in securing government funds in the form of loans and grants for various business associates and friends in his home town and riding.

• (1420)

Today in the *National Post*, we have yet another twist to this ever-thickening plot. Transelec, a company whose president, Mr. Claude Gauthier, has a personal and political relationship with the Prime Minister, was awarded a \$6.3-million contract by the Canadian International Development Agency for an electrical power distribution project in Mali.

In addition to being selected from a short list of three companies, coincidentally all from the Prime Minister's region, we learned that Mr. Gauthier's company donated \$10,000 to Mr. Chrétien's campaign fund. This figure is in addition to an earlier \$5,000 donation, as well as \$28,323 to the Liberal Party of Canada over the last five years.

What is even more alarming is that, while all of this was going on, Mr. Gauthier's company bought a \$525,000 parcel of land from 161341 Canada Inc., a company in which Mr. Chrétien has a financial interest, and which owns the Grand-Mère Golf Club.

There are serious issues at stake here, honourable senators. These issues go to the heart of public accountability and public confidence. Certainly the evidence points to the abuse of taxpayers' money. So much for the Prime Minister's version of honesty and integrity in government.

Will the Leader of the Government in the Senate explain why the government refuses to subject the CIDA contracts, the money to the golf club, the loans and grants to the Auberge des Gouverneurs and the untendered \$190,000 contract for a road into the Prime Minister's personal residence to an open review? If this is so above-board, why not agree to an independent investigation and audit to clear the air?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I take the senator's question very seriously. However, the charges are simply false. Senator LeBreton used the word "has" to state that the Prime Minister has a personal and financial interest in these matters. I repeat, that is false.

Senator Kinsella: How do you know?

Senator Graham: The Prime Minister has stated that he sold his shares in the company which owned the golf course. Since then, he has not had any financial interest in that company whatsoever.

Senator LeBreton: Honourable senators, according to this same report, Howard Wilson, the so-called ethics commissioner, noted that Debbie Weinstein, the person who operates the Prime Minister's blind trust, is now trying to arrange a new sale of these shares. If the Prime Minister has an interest, directly or indirectly, I should like to know what that is.

My question remains. We have an ethics commissioner who does not answer to Parliament or the public. If there is nothing to hide here, why not, as was requested in the other place, subject these investments to an independent audit?

Senator Graham: Honourable senators, like many companies across Canada, Transelec has a long and successful record of delivering on important international contracts awarded with the help of CIDA. These include contracts during the government's term in office.

The Mali project contract, to which my honourable friend is referring, was awarded to Transelec through a competitive process. That competitive process left the decision to an independent committee of selection which included representatives of the Government of Mali who are responsible for awarding the contract.

Senator LeBreton: Perhaps the government leader should consult with his colleague in the other place, Minister Pettigrew. He seems to have given an answer in the House of Commons to the contrary of what is now being said.

The Leader of the Government in the Senate has stated that Transelec is a company that has been in business for a long time in this country. Though I do not expect an answer today, I would appreciate a response perhaps tomorrow, or one day in the very near future, with regard to exactly when Transelec was formed,

who it was formed by and where it has done business in other parts of the world.

Senator Graham: My information, honourable senators, is that Transelec has done business in various parts of the world and won contracts from the previous government.

To ensure that there is no misunderstanding here, CIDA staff evaluated the pre-qualification submissions based on the established criteria. Seven companies were eligible and submissions were made in the normal course of events.

Three companies were eligible to submit a detailed cost proposal to the selection committee, which made the final decision. The selection committee was composed of two representatives of the Government of Mali, one CIDA specialist in this area of work and one outside engineering consultant, an engineer. Those are the facts of the matter.

I invite the honourable senator to ensure that, rather than maligning the Prime Minister or contributing to misinformation, she check the facts before asking such questions.

Senator LeBreton: Honourable senators, I have a further supplementary question. The Leader of the Government in the Senate spoke about the final three companies that were involved in the bidding process. There were seven companies originally. Why is it that those three companies, all from the Prime Minister's region, were the only ones selected to bid? According to the news reports one company from Markham, Ontario, wrote a letter of complaint to the government but has not received a response.

What were the criteria that resulted in three companies from the Prime Minister's region being the only ones eligible to bid on this contract?

Senator Graham: Honourable senators, I presume that the selection committee went from the long list of seven, to a short list of three. From the short list of three, they selected what they determined to be the best company to do the work. All of this is common practice.

INDUSTRY

SHIPBUILDING—DEVELOPMENT OF NATIONAL POLICY—GOVERNMENT POSITION

Hon. Mabel M. DeWare: Honourable senators, my question is for the Leader of the Government in the Senate and concerns the government shipbuilding policy, or the lack of one.

The Minister of Industry in the other place has repeatedly said that the government has a shipbuilding policy. Premier Thériault of New Brunswick promised on May 20, in his election platform, to vigorously promote the establishment of a Canadian shipbuilding policy with the Government of Canada.

Honourable senators, if there were a Canadian shipbuilding policy, the Premier of New Brunswick would not be pushing for the establishment of one.

Could the government leader tell us who is correct, the Minister of Industry when he says that the government has a shipbuilding policy, or the Premier of New Brunswick, who says that the federal government needs to establish one?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as the regional minister for Nova Scotia, I am as interested in shipbuilding as Senator DeWare, who is a very able representative for the Province of New Brunswick.

Several government departments and agencies are working on behalf of shipbuilders in this regard. The Department of Foreign Affairs and International Trade is very active in enhancing access to foreign markets. The same department sponsors fairs and missions and the export market development program.

The Export Development Corporation is financing ship exports and is currently reviewing over \$730 million worth of proposals.

The Canadian Commercial Corporation has had recent expressions of foreign interest in potential framing contracts for Canadian shipbuilders.

• (1430)

Revenue Canada offers a 33 per cent accelerated capital cost allowance. The Department of National Defence, Transport Canada, the Coast Guard and other departments and agencies continue to buy, refit and repair their ships in Canadian yards on a competitive basis.

There are several procurement projects planned to start in the 1999-2000 fiscal year. Industry Canada, as I recall, has Technology Partnerships Canada, which involves working together with individual provinces to further promote shipbuilding. The government recognizes the importance of the shipbuilding industry not only to the senator's province but to other provinces across the country.

Senator DeWare: It is all well and good for the government leader in the Senate to repeat those statistics. In the meantime, our shipyards are standing empty. They have laid off thousands of workers. The leader says the minister has all this in his program, but there is a continual refusal — despite many questions during Question Period in the other place — to bring in measures to assist the Canadian shipbuilding industry.

The leader has referred to fiscal 1999-2000, but we have not seen anything yet. Can we conclude that that part of the New Brunswick Liberals' platform was nothing but empty rhetoric and that the premier does not have a prayer of having this federal government do anything to help the province's shipbuilding industry? The leader says he does, but we still have shipyards standing empty, and they have been empty for quite a few years now. We will lose those workers — and it is not just a matter of his province and my province; this involves the West Coast and Ontario and Quebec as well.

Senator Graham: There is nothing that I am aware of in the New Brunswick Liberal platform that is empty rhetoric. I understand from hearing from people who have been in the

province that it is very progressive, very positive and that it will achieve the desired results. I am aware of the concerns of the shipbuilding industry and its workers. As we all know, changing markets coupled with international conditions, including the frequent use of subsidies and protectionist practices, have created a difficult situation for Canadian shipbuilding companies. However, as I said, we have an accelerated capital cost allowance to help improve the situation.

I should also mention that there is a 25 per cent duty on most ships imported from non-NAFTA countries. Domestic procurement on a competitive basis for all government shipbuilding and ship repair needs is very much a priority.

In any event, I shall bring to the attention of the Minister of Industry, particularly, and to the Minister of Trade, the legitimate concerns expressed by the Honourable Senator DeWare.

NATIONAL DEFENCE

CORNWALLIS MILITARY MUSEUM—RETURN OF STAINED GLASS WINDOWS REMOVED FROM CHAPEL—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question also is directed to the Leader of the Government in the Senate. I want to refer to the volunteers at Cornwallis Military Museum who have been working very hard, as has the local community, to get the naval memorial windows returned to Cornwallis. It is my understanding that the Chaplain General is due to retire shortly. Would the minister from Nova Scotia take this opportunity to approach the Chaplain General and request, as a measure of goodwill on his part prior to his retirement, that the stained glass windows be returned to Cornwallis, where they rightfully belong?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Senator Comeau has raised those concerns on several occasions. I indicated that the Chaplain General had made a decision. Originally it was that the stained glass windows should be in a consecrated building. Senator Comeau subsequently indicated — perhaps he could reaffirm this — that the building to which he would like the stained glass windows returned has been either consecrated or re-consecrated.

The Chaplain General made his decision, but I should be very happy to again discuss this matter with the Minister of National Defence.

Senator Comeau: Honourable senators, I will confirm in writing to the Minister that, in fact, the chapel was re-consecrated during the Battle of the Atlantic commemorative ceremonies in a very moving, ecumenical service which I attended.

I should like to point out to the minister that Atlantic Canada has taken the brunt of many cut-backs, many painful actions, on the part of this current government over the last five to six years. Covering the cost involved in moving these stained glass windows would be at least a small gesture to show that this government has not completely abandoned Atlantic Canada. I should like the minister to at least consider that part.

Senator Graham: Honourable senators, I think the question of whether the Government of Canada has completely abandoned Atlantic Canada would be the subject of another debate. I could provide statistics and information that would prove otherwise. I am pleased of course that the honourable senator mentioned the Battle of the Atlantic commemorative ceremonies. Senator Forrestall and I had the privilege of attending those commemorative ceremonies at Point Pleasant Park in Halifax. They were indeed moving.

I shall be happy to draw the honourable senator's representations to the attention of the minister.

NORTH ATLANTIC TREATY ORGANIZATION

CONFLICT IN YUGOSLAVIA—DEPLOYMENT OF GROUND TROOPS—
BRIEFING TO DEFENCE MINISTERS—LACK OF INVITATION TO
CANADIAN REPRESENTATIVES—GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, I want to return to the two-part question that I asked yesterday of the Leader of the Government in the Senate. I pointed out that Professor Lawrence Freedman had suggested that one of the ground war options in Kosovo was to use a mixture of British-led troops: British, French, Italian, German and, somewhere in the background, not out of sight by any means but in the background, the United States.

A meeting to that effect was held recently to which Canada was not invited. I raise the matter again today because I was pleased to hear the minister's reaction yesterday that indeed Canada and Canadians were very disturbed to learn that we had not been invited to attend or to participate in a general meeting in that regard.

As you know, the role of the recce squadron, which will be Canada's primary thrust, involves being out in front of the army that is at the front. To that end, Canadians will be the first into battle and the last out. Surely, it is important, as the minister has said, that we be invited to participate in all the discussions leading up to such an eventuality, should it occur.

Has the minister received any advice from his colleagues, the Minister of Foreign Affairs or the Minister of National Defence, or their staffs, as to what action is proposed on the part of those who excluded Canada from that meeting? Has there been an apology? Does the government know why Canada was excluded? Was the exclusion made on a need-to-know basis? Just what was the reason we were excluded?

The matter, as the minister indicated in his reply yesterday, is one of critical importance to Canada and Canada's contribution. If the minister has anything further to add, I should be pleased to hear it.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not know if there has been an apology, but I certainly know that the meeting that was held without the participation of Canada has been drawn to the attention of those concerned. I drew this to the attention of the Prime Minister, the

Minister of Foreign Affairs and the Minister of National Defence again this morning.

To repeat what I said here yesterday, the action of those who met without inviting Canada were absolutely unacceptable.

• (1440)

At the same time, there are other actions on the diplomatic front. I understand that the G-8 foreign ministers will be meeting next Wednesday, and there is a summit meeting of the G-8 countries on June 18 and 19. We will be following a very critical path between now and that time with respect to diplomacy.

In the meantime, already 280 members of the Armed Forces are supporting or operating CF-18s in Italy. Some 200 crewmen are aboard the *Athabaskan*, which is now in the Adriatic. Deployment of the 800 troops committed for peacekeeping purposes has already begun. As my honourable friend knows, the ground support equipment is well on the way, shipped through the Port of Montreal a few weeks ago. If it has not arrived, it is about to arrive at its destination.

Senator Forrestall: The minister then has no reason to suggest that we will be included in future meetings. I would call upon his good offices to extend to the Prime Minister and his other colleagues the urgency on a day-to-day basis of Canadian command and control communications with our allies in this regard. If any kind of ground action is contemplated over the next 30 to 60 days, the planning must be literally day by day and hour by hour. It is in this critical aspect that it is so important that Canada know where it fits.

Senator Graham: Honourable senators, I agree with Honourable Senator Forrestall. I have been assured by the Minister of National Defence and the Minister of Foreign Affairs that they are in regular, if not daily, contact with their counterparts with respect to the developments in the Balkans. It has happened once that we were not invited or informed of a certain meeting. I certainly hope it does not happen again.

CONFLICT IN YUGOSLAVIA—SUPPORT FOR
KOSOVO LIBERATION ARMY—GOVERNMENT POSITION

Hon. A. Raynell Andreychuk: Honourable senators, I wish to follow up on the issue of the Kosovo Liberation Army. Is it still Canada's position that neither NATO nor Canada will cooperate in any way on the ground with the KLA troops that appear to be in Kosovo and active at this time?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the answer would be yes, very much in the affirmative. We would refuse to cooperate.

Senator Andreychuk: There have been reports of some cooperation by perhaps the Americans or other NATO members. If those reports were proven to be true, what would Canada's position be with respect to its involvement in the NATO entrance into Kosovo?

Senator Graham: It is not Canada's intention to be involved with the KLA.

Senator Andreychuk: Honourable senators, am I to take from that answer, then, that we will reassess our position in the NATO activity in Kosovo should it be proven that there is coordination and cooperation between some of our NATO allies and the KLA?

Senator Graham: Honourable senators, we are hoping that we will be able to achieve our objectives through the present military actions and the diplomatic channels that are ongoing on a daily basis. The objectives have been outlined as the conditions of NATO, the Secretary General, the G-8 countries, and the European Community. I understand that the authorities in Belgrade are now examining all of those conditions more closely than in the past. It would be the objective of Canada to participate only in a peacekeeping force, which would not require participation or cooperation with the KLA.

FOREIGN AFFAIRS

CONFLICT IN YUGOSLAVIA—AIR STRIKES BY NATO FORCES—POSSIBILITY OF CESSATION—GOVERNMENT POSITION

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. It is apparent that the Milosevic regime is on the ropes. The man himself has been indicted. Last night, more civilians were killed in bombing raids. Why must bombing at this stage continue, having the effect of taking innocent lives with it?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the decision has been taken by all of the NATO allies. Experts on the ground have determined that the bombing must continue and that the authorities in Belgrade must come to accept the principles as outlined by the NATO allies, by the Secretary-General of the United Nations, and by all the other authorities I cited earlier. It has been determined, unfortunately, that the bombing must continue.

Senator Roche: Has the Government of Canada yet examined the statement made last week by former president Jimmy Carter to the effect that the continuation of the bombing has now become senseless and excessively brutal?

Senator Graham: Honourable senators, the Government of Canada is cognizant of all the statements made on this subject, most particularly by someone with the eminent reputation and qualifications of former president Carter.

At the same time, efforts are going forward on the diplomatic front. As I indicated, the G-8 foreign ministers are meeting next Wednesday. Russian special envoy Chernomyrdin intends to visit Belgrade tomorrow. He will be accompanied by Finnish president Martti Ahtisaari, who is part of a troika with the U.S. representative, the Deputy Undersecretary of State Strobe Talbott.

I understand that Yugoslav press reports of Chernomyrdin's last visit suggest that Milosevic is prepared to accept the

G-8 principles. However, it appears that Milosevic only agreed, as he had already done, to negotiate an agreement on the basis of the G-8 principles, rather than to proceed with their implementation. Perhaps the visit of both Ahtisaari and Chernomyrdin will bring more clarity to the situation tomorrow.

Hon. Gerry St. Germain: Honourable senators, I have a short supplementary question, also to the Leader of the Government in the Senate.

As I have pointed out from the very beginning in conversations with Senator Lawson, and I am on record in Hansard as well, we are creating another Vietnam by going into Kosovo on these bombing missions.

I hear of delegations going down to Texas to save Stanley Faulder. We were not prepared to deal with Clifford Robert Olson properly after he declared war on the children in my riding in the late 1970s and early 1980s. Paul Bernardo goes on living. There is a general consensus that innocent people should not be victims in what many of us consider to be the exercising of justice.

As we go forward with the bombing, how do we reconcile it with the fact that innocent people are dying because of the stubbornness of the leader of the Serbs?

• (1450)

I ask this question because I believe the President of the United States and possibly the Prime Minister of Britain are running the agenda on this issue, and we seem to be falling in behind them. Why have we not taken a firmer stand? How do we reconcile the two standards where we are prepared to jeopardize of lives of innocent people in Serbia, yet when it comes to dealing with those who have declared war on citizens within our country, we are not prepared to take appropriate action?

Senator Graham: Honourable senators, that would be a subject for another debate. I do not say that they are two separate issues, but for the purposes of today's debate, they are.

I do not know that my honourable colleague was in the chamber last evening when I indicated that NATO has taken extraordinary measures during this very difficult period to avoid civilian casualties and has been quick to express regret over the loss of civilian life. As I understand it, the alliance has flown over 31,500 missions, including over 9,000 strike sorties, and has launched over 12,000 bombs. We have had very few cases of unintended strikes against civilians.

Senator St. Germain: Honourable senators, I hear what the Leader of the Government is saying, and I have read what he said last evening during Question Period. However, he still has not answered the question of how we reconcile these various standards.

We have problems with our youth in Canada and the U.S. When they see these double standards, how can they possibly understand what we are doing?

I am not being confrontational, honourable senators. I stand here today saying that something must be done, and I have said that from the very beginning. My position has not changed and I have not wavered, but I question the tactical military strategy that has been used.

I honestly believe that the President of the United States is incapable of making a proper decision. This campaign began as a rescue mission and ended up being a war. Whenever we go to war, we do not want anyone coming home in a body bag. If we start from that premise, how in God's name can we reconcile this issue and come out of the conflict with any degree of honour and integrity, given what we set out to do?

Senator Graham: Honourable senators, this is a very difficult situation.

I should like to place on the record the conditions of NATO, the Secretary-General of the United Nations and those of the European Community. Perhaps I could read for the record the statement of the chairman on the conclusion of the meeting of G-8 foreign ministers. These are the conditions that they have set down, which I understand are meeting with more favour with the authorities in Belgrade at the present time. The statement includes part of the NATO principles and conditions as well as other conditions.

The G-8 foreign ministers adopted the following general principles on the political solution to the Kosovo crisis. They include: immediate and verifiable end of violence and repression in Kosovo; withdrawal from Kosovo of military, police and para-military forces; the deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives; establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo; the safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations; a political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of the UCK.

Honourable senators, that goes part way to answering Senator Andreychuk's question on the UCK, or KLA.

Finally, the foreign ministers adopted the general policy of a comprehensive approach to the economic development and stabilization of the crisis region.

In order to implement these principles, the G-8 foreign ministers instructed their political directors to prepare elements of the United Nations Security Council resolution. The political directors will draw up a road-map on further concrete steps towards a political solution in the Kosovo crisis. The

G-8 presidency will inform the Chinese government on the results of the meeting, and foreign ministers will reconvene in due time — which will be next week — to review the progress which has been achieved to that point.

I apologize for the length of time I have taken to make these points, but I think it is important for all honourable senators to have it on the record.

[*Translation*]

CANADA-UNITED STATES RELATIONS

LOSS OF FAVOURED EXEMPTION FROM INTERNATIONAL TRAFFIC IN ARMS REGULATIONS—REQUEST FOR UPDATE

Hon. Roch Bolduc: Honourable senators, a month ago, Senator Nolin and I asked some questions on the loss of the favoured exemption from International Traffic in Arms Regulations. There was a possibility of a trade dispute with the United States.

Mr. Axworthy responded that some progress had been made. A deadline had been set for reviewing the issues. In the past two weeks, at least twenty companies have been forced to obtain additional export permits. Two hundred Canadian companies are in this situation and are liable to lose contracts worth more than \$1 billion.

This is, therefore, a serious issue and a few of the cases involved are even a bit silly. I have information here from Allied Signal of Canada Inc., which gives the following example:

[*English*]

One silly example...is a case where we design a piece of equipment, ship to the U.S. to be fitted, and then it can't be shipped back to be modified unless there is an export permit.

[*Translation*]

These are problems we can solve. Meetings are scheduled with American and Canadian authorities as well as defence companies. Might the minister have some progress or interesting developments to report?

[*English*]

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Minister Axworthy has raised this question on several occasions with Madam Albright. As I recall in my last exchange on this particular subject with Senator Nolin, Minister Axworthy had a meeting with Madam Albright on April 22, at which time he stressed the importance of maintaining our close defence cooperation. He also raised Canada's concerns over the possible impact of a change in any defence, aerospace or satellite industry arrangements.

The Minister of Foreign Affairs met with Madam Albright on a broad range of issues last Friday, and he again raised this particular point. I can assure Senator Bolduc that officials have held regular meetings as well to find ways to mitigate the effects of changes to the regulations. Canadian officials are examining Canadian export control regulations to see what steps might be taken to answer U.S. concerns about the unauthorized transfer of sensitive technology to third countries. Canadian officials will monitor the implementation of the regulatory changes to ensure that the concerns of Canadian firms are effectively addressed. Honourable senators, every effort will be made to ensure that the Canadian high-tech and defence industries continue to enjoy the access to cross-border contracts that has been extremely beneficial to government and industry in both countries.

PRIVATE BILL

ALLIANCE OF MANUFACTURERS AND EXPORTERS CANADA— MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-18, respecting the Alliance of Manufacturers & Exporters Canada, and acquainting the Senate that they have passed this bill without amendment.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the pages who are here this week on the exchange program with the House of Commons.

[Translation]

On my right I have Caroline Podsiadlo. She is studying history in the Faculty of Arts, at the University of Ottawa. She is originally from Dorval, in Quebec.

[English]

Adrienne Jarabek is studying in the Faculty of Administration at the University of Ottawa. She is enrolled in the Public Policy and Management Co-op Program. Adrienne is from London, Ontario.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Caroline and Adrienne, I bid you welcome to the Senate on behalf of all honourable senators. I hope your stay with us will be both pleasant and instructive.

ORDERS OF THE DAY

INCOME TAX AMENDMENTS BILL, 1998

THIRD READING

Hon. Catherine S. Callbeck moved the third reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

The Hon. the Speaker: Does no other honourable senator wish to speak on this matter?

Hon. David Tkachuk: Honourable senators, I wish to speak to this matter tomorrow.

On motion of Senator Tkachuk, debate adjourned.

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

STUDY OF TABLED DOCUMENT—REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

On the Order:

Resuming debate on consideration of the twenty-fourth report of the Standing Senate Committee on Legal and Constitutional Affairs (Proposals for a Miscellaneous Statute Law Amendment Act, 1998) presented in the Senate on May 13, 1999.

The Hon. the Speaker: Honourable senators, when this matter first came up in the Senate, it was simply put on the Order Paper for consideration. However, it is normal practice that the report be adopted by the Senate.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move the adoption of the report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

CONSIDERATION OF REPORT OF COMMITTEE— POINT OF ORDER—SPEAKER'S RULING RESERVED

On the Order:

Consideration of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, I rise on a point of order regarding the admissibility of the amendments to Bill C-55 which are contained in the twelfth report of the Standing Senate Committee on Transport and Communications.

It is my contention that the amendments proposed to clause 2, and to create clauses 20.1, 21.1 and 21.2, are not in order as they are in direct contradiction to the principle of the bill. I refer first to *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, Citation 698(5), at page 207, which states:

An amendment which is equivalent to a negative of the bill, or which would reverse the principle of the bill as agreed to at the second reading stage is not admissible.

Second, I refer to *Erskine May Parliamentary Practice*, Twenty-second Edition, which makes the same point at page 526, paragraph 5:

An amendment which is equivalent to a negative of the bill, or which would reverse the principle of the bill as agreed to on the second reading, is not admissible. Where the scope of a bill is very restricted, the extent to which it may be amended at all may thus be severely limited.

The question, then, is: What is the principle of Bill C-55? It can be found in two different parts of the bill. First, it can be found in the summary, which is on the inside cover of the bill, where it is stated that:

It creates an offence for a foreign periodical publisher to supply advertising services directed at the Canadian market to Canadian advertisers.

In clause 3(1) of the bill, honourable senators will find a quotation which is quite explicit as to its principle. It states:

No foreign publisher shall supply advertising services directed at the Canadian market to a Canadian advertiser or a person acting on their behalf.

Thus, the prohibition is clear. It is absolute. The principle is one of absolute prohibition, and a violation of the principle in the bill creates an offence.

Where else can we look for confirmation of the principle of this bill as agreed to at second reading? There are many places to which we can look. I will only quote one of the most eloquent which was expressed here on March 18 by the Leader of the Government in the Senate as he led off the debate on second reading.

He stated:

Bill C-55 would prohibit foreign publishers from supplying advertising services directed at the Canadian market to a Canadian advertiser. It would not prohibit sales of advertising services directed at other markets.

Further on, he stated:

It will guarantee that only Canadian publishers can sell advertising services aimed at the Canadian market, except for those who have been grandfathered. It will put in place tough, appropriate penalties for foreign publishers who contravene the act.

These statements are completely consistent with those made by the Minister of Canadian Heritage at second reading in the other place on October 22, 1998.

Therefore, it is quite clear that the intent of Bill C-55 was to prohibit absolutely the possibility of Canadian advertising being placed in American periodicals known as split runs.

I should now like to examine the one amendment which alone clearly contradicts clause 3 of Bill C-55 and, therefore, the principle of the bill which this chamber supported at second reading.

By new clause 21.1, Bill C-55 will not apply to a foreign publisher who supplies advertising services directed at the Canadian market in a periodical, depending upon the relationship of the revenues generated by the Canadian advertising as a ratio of total advertising revenues. In other words, this amendment allows what Bill C-55 completely intended to disallow, which is in complete contradiction to the principle approved by the Senate.

There are those who will argue that it is only a deviation of the principle, since the absolute limitation is reduced, in the first year, by 12 per cent; by 15 per cent in the second year; and by 18 per cent in the third year. In effect, at the end of three years, some 82 per cent of the market, theoretically, is blocked out. Whether it is 1 per cent or 99 per cent, the principle is still violated. Its violation is confirmed indirectly in a letter which was published in *The Hill Times* on May 17 and signed by the federal Heritage Minister. Speaking of Bill C-55 she stated:

The bill prevents foreign publishers from selling advertising services in foreign editions of magazines targeted primarily at the Canadian market. Without this legislation, foreign publishers could do this profitably at a fraction of the cost needed to sustain Canadian content magazines.

It is quite clear that the intent and principle behind Bill C-55, so well stated by the minister in this letter, is violated by the fact that the very people who were to be targeted 100 per cent are now allowed to enter the market on new conditions.

• (1510)

In order to help the Speaker's consideration of this point of order, I should also like to draw to his attention a ruling of Mr. Speaker Lamoureux which was recorded in the *Journals of the House of Commons* of January 27, 1967. In this case, the Speaker, while dealing with an amendment put at third reading of a bill to establish a transportation policy for Canada, quoted the principle upon which I rely today. He stated:

Obviously there must be limitations on the type of amendments that can be moved on third reading. An amendment must be subject to certain limitations. For example, it must be relevant to the bill which it seeks to amend; it should not seek to give a mandatory instruction to the Committee, and it should not contradict the principle of the bill adopted on second reading. I point these last two out as examples of what these amendments should not do.

Therefore, clearly, a proposed amendment which contradicts the principle of the bill adopted at second reading is out of order.

Let me also draw your attention to page 509 of the Eighteenth Edition of Erskine May, where it states:

An amendment which is equivalent to a negative of the bill, or which would reverse the principle of the bill as agreed to on the second reading, is not admissible...

The scope of the Parliamentary Elections (No. 2) Bill, 1880, being restricted to the repeal of a section in a statute, an amendment which proposed the continuance and extension of that section was ruled out of order. The chairman stated that, though the committee had full power to amend, even to the extent of nullifying the provisions of a bill, they could not insert a clause reversing the principle which the bill, as read a second time, sought to affirm.

It is very clear, honourable senators, that the amendment which adds clause 21.1 to Bill C-55 violates the principle of the bill and is clearly out of order. It is the main amendment to implement the new arrangements entered into between Canada and the United States in relation to magazine advertising. I firmly believe that the only route for the government to follow in this case is to introduce a new bill in the House of Commons encompassing all the elements of this agreement, including the subsidies or whatever financial assistance has been agreed to as necessary to support Canada's magazine industry made necessary because of this new agreement.

In addition to the authorities quoted to support my argument, I should like to quote from the two most interested parties in Bill C-55, the Minister of Canadian Heritage and the Canadian Magazine Publishers Association.

When asked yesterday whether the amendment to clause 2 was a substantial change — those were the words used — to what was originally proposed, the minister replied, "Yes." When asked the same question about the amendment creating clause 20.1, she gave the same answer. Even the minister agrees that there is a drastic change through these amendments to the original bill, a substantial change, and one which many of us feel violates the principle in Bill C-55, which the government wishes to eliminate.

In its brief dated May 6 to the Transport and Communications Committee, the publishers' association supported Bill C-55 without reservation, and in commenting on the outcome of

discussions, unknown at the time, between American and Canadian trade officials, said:

...if U.S. publishers are to benefit from access to our advertising services market, they would have to provide a majority of Canadian content in the resulting Canadian split-run advertising editions.

In an open letter dated May 21 to the Prime Minister, at the time when reports of the terms of an agreement were being widely circulated, the Canadian publishers wrote as follows:

...acceding to the U.S. demand for a so-called *de minimis* of 20 per cent, give or take a few points, would gut Bill C-55. It would be a straight give away of a very significant portion of the Canadian advertising services market without any requirement that U.S. publishers print one word about Canada.

This analysis, by a party whose interest Bill-C55 was intended to protect, confirms the contention that the amendments, to use the publishers' association's own term, gut Bill C-55 and, therefore, violate its principle and are not in order.

I also want to point out in closing, honourable senators, that the proposed amendments result from an agreement between the United States and Canada, an agreement which the Minister of Canadian Heritage said would take the form of a treaty. As I understand it, the final text of the agreement has yet to be signed. Surely, to ask a house of Parliament to vote on a bill largely based on an unsigned document, whose text has yet to be made public, is unprecedented, even out of order.

In addition, the minister yesterday also said that, as a result of the agreement, a magazine fund to assist the Canadian magazine industry will be established but she would give none of its details, not even an estimate on how many taxpayer dollars it will require.

These amendments, then, also imply an unknown tax expenditure. It is simply unacceptable that the Senate of Canada initiate what, in effect if not in law, is a money bill. This is the absolute responsibility of the House of Commons, a responsibility which this report asks the Senate to arrogate to itself, in violation of a basic convention with which we are all familiar and which we should be the first to respect.

I raise these matters, honourable senators, to help His Honour rule on the point of order, because it is essential that, in doing so, he be aware not only of the nature of the amendments but of their origin and financial implications. It is clear, I repeat, that the proposed clauses 21.1 and 21.2 in particular violate the principle of the bill as agreed to by this chamber at second reading. They should be ruled out of order and the government should be required to introduce a new bill in the House of Commons, a bill incorporating all the facets of the treaty with the Americans, including any financial relief to Canadian publishers, as well as the amendments which have, I maintain, no place before us.

The Hon. the Speaker: Do any other honourable senators wish to speak to the point of order?

Hon. Marie-P. Poulin: Honourable senators, in addressing a challenge to the proposed amendments, one must first clarify the role of this committee or, for that matter, any committee when examining legislation. Beauchesne's 6th Edition at page 205 very clearly defines the role of a committee in such circumstances. Paragraph 688 provides as follows:

The function of a committee on a bill is to go through the text of the bill clause by clause and, if necessary, word by word, with a view to making such amendments in it as may seem likely to render it more generally acceptable.

Based on the testimony the committee has heard, it believes that these amendments would, in fact, make the bill more generally acceptable. We believe it strikes a more even balance between the various stakeholders.

There are, of course, limitations on what amendments a committee may make to a bill. The most basic rule or limitation is contained in paragraph 689(1) of Beauchesne's, which states:

A committee is bound by the decision of the House, given on second reading, in favour of the principle of the bill, and should not, therefore, amend the bill in a manner destructive of this principle.

This leads to the obvious question: What is the principle of a bill? Where do we turn for guidance when attempting to determine the principle of a bill? Fortunately, Beauchesne's provides the answer at paragraph 689(3), where it states:

The objects (also referred to as the principle or scope) of a bill are stated in its long title, which should cover everything contained in the bill as it was introduced.

Thus, in order to determine whether an amendment is contrary to the principle of a bill, we first must go to the long title of the bill in order to determine what in fact is the principle of the bill that must be defended at this stage. The long title of the Bill C-55 reads as follows:

An Act respecting advertising services supplied by foreign periodical publishers.

• (1520)

Does anything in the proposed amendments deal with anything except measures dealing with advertising services supplied by foreign periodical publishers? No. Bill C-55 establishes a prohibition against the sale of advertising by foreign publishers to Canadian advertisers. The new clauses set out, in 21.1 and 21.2, provide for limited and conditional exceptions to the prohibition.

Clause 21.1 provides for a *de minimis* exception. It also allows limited access to Canadian advertising revenues by foreign magazines. Clause 21.2 provides an exception for foreign

publishers who wish to invest in Canada to create Canadian content and to employ Canadians to have access to the Canadian advertising market.

Two other changes are consequential and incidental; one is an amendment to article 2, increasing access to foreign investments for Canadian publishers, and the other, also a new clause, is the new regulatory power. It allows the government to define advertising revenues for the purposes of this act.

How can this possibly be seen as going against the principle of the bill as enunciated in the long title? The long title talks about advertising services provided by foreign periodical publishers, and this amendment establishes certain rules for foreign periodical publishers who wish to provide advertising services.

The same reasoning applies to the second part of the amendment which sets out an exemption for foreign publishers who make an investment in periodical publishing that has been approved under the Investment Canada Act. Once again, we are talking about certain adjustments in the rules for foreign periodical publishers who wish to supply advertising services; exactly as described in the long title of Bill C-55 as the principle of the bill.

Just because someone may not agree with the rules of scheme being proposed for foreign periodical publishers who wish to supply advertising services, does not mean that suddenly the principle of the bill is being violated. The fact remains that even with the amendments, Bill C-55 remains a bill dealing with advertising services supplied by foreign periodical publishers.

Beauchesne's, at paragraph 689.(2), states:

The committee may so change the provisions of the bill that when it is reported to the House it is in substance a bill other than which was referred. A committee may negative every clause and substitute new clauses, if relevant to the bill as read a second time.

These proposed amendments do not go anywhere as far as Beauchesne's says is still permissible.

In paragraph 689.(2), Beauchesne states that the principle of the bill can still be preserved even if every single clause of the bill is removed and replaced with brand-new clauses. Paragraph 689.(2) describes how it is permissible to so extensively amend a bill that it is, in substance, a different bill.

The committee is proposing much less than this with these amendments. Not a single clause is being removed. In fact, not a single word is being struck out. What is being proposed are amendments to provide certain very limited exceptions for foreign periodical publishers. These exceptions are being added immediately following the exception from the basic regime that is already contained in clause 21 of the legislation. The proposed amendments fine-tune the bill. They do not go anywhere near negating the principle of the bill or striking at its heart.

This legislation remains, unequivocally, a bill respecting advertising services supplied by foreign periodical publishers. That the opposition does not like what is being proposed for those publishers does not change the simple and undeniable fact. It may be argued that the proposed amendments do not technically violate the principle of the bill, as defined in its long title, but that they nevertheless violate the policy and intent of the legislation and are therefore contrary to the principle of the bill. The first point which must be made is that this formulation about violating the principle of the bill is again not supported by Beauchesne's or Erskine May. As long as the amendments are relevant and not beyond the scope of the bill, or destructive of its principles, they are in order.

For the sake of argument, what is the policy principle that is intended to be advanced by this legislation? For Senator Graham, when he spoke to this bill on behalf of the government, there were in fact a number of policy principles. He said, on March 18 of this year:

The principles enunciated in this bill are to preserve Canadian culture and to give Canadian magazines, their writers and their editors, a chance to ply their trade and to tell us more about what being Canadian really means. That is the principle behind the bill.

For Senator Graham, these various elements make up the policy principle behind the bill.

Though the Honourable Sheila Copps did not use the words "principle of the bill" in her second reading speech, she did, nevertheless, provide an overview of the policy behind the legislation. She said, on October 22, 1998:

This bill upholds longstanding Canadian cultural objectives and it upholds and supports the right of Canada and the right of Canadians to advance and promote Canadian culture and by doing so to advance and promote our identity and our nationhood.

These amendments do not run contrary to the objectives described by Minister Copps simply because the manner or mechanism by which they are to be achieved will be slightly modified. The policy principles remain the preservation and defence of our culture by enhancing the ability of Canadian magazines to succeed in the market-place. Perhaps the opposition does not agree with the limited exceptions being proposed by the amendments to the regime contained in the bill. However, that disagreement is about how the policy is to be carried out and not about the policy itself.

When the House of Commons adopted an amendment to this bill to strengthen the grandfather provisions for foreign publishers already in the Canadian market, no one argued that the principle of the bill was being violated. The reason is that there is a fundamental difference between changing the policy thrust of the bill and modifying the measures by which the enunciated policy is to be pursued.

These proposed amendments do not alter the policy or principle underlying the bill. What they do is make changes to the mechanisms that were designed to implement that policy. Such amendments cannot be contrary to the principle of the bill.

The principle remains. What has changed is the precise details of how it will be advanced. It is out of order to make changes to those details. Virtually no amendment to any bill could ever be in order if that were so.

In the past, substantive amendments have been proposed to bills without anyone claiming that the principle of the bill was being violated. Recently, we had the proposed amendments to the extradition bill. The amendments would have fundamentally changed the proposal for dealing with the way fugitives facing possible capital punishment would be treated if apprehended in Canada. That was a significant amendment, but it did not violate the principle of the bill. It was attempting to modify the details.

The Senate has a long history of proposing substantive amendments to legislation. In 1987, Bill C-22 was before the Senate, a bill concerning pharmaceutical manufacturers. Major amendments were passed in the Senate that, had they been accepted in the House of Commons, would have resulted in a very different regime for dealing with prescription drugs than we have today.

Similarly, going back to 1990, when one examines the amendments the Senate proposed to Bill C-21, relating to unemployment insurance, one finds very substantive proposals. One of them was to ensure that the federal government remained a direct contributor to the unemployment insurance account. Many more such examples exist. Simply because an amendment is substantive and would fundamentally change some provision of a bill does not mean that the amendment is, therefore, contrary to the principle of the bill and must be ruled out of order.

With respect to Bill C-55, what is being proposed here is a far less substantive change than what was proposed with other bills such as Bill C-22 in 1987, and Bill C-21 in 1990.

Hon. David Tkachuk: Honourable senators, I have a question that I wish to pose to the Honourable Senator Poulin. If the amendments are exceptions to an article in the bill or a rule in the bill, what is the article to which it is an exception?

Senator Poulin: I wish to thank the honourable senator for his question. I hope I understood it correctly.

The amendments provide for limited and conditional exceptions to the main regulatory regime as established by the bill. New clause 21.1 sets out a *de minimis* exception for certain foreign publishers. By its own terms, it is restricted to no more than the percentages set out in the clause: 12 per cent for the first 18 months, 15 per cent for the next 18 months, and 18 per cent thereafter. This exception is, therefore, of limited application.

New clause 21.2 sets out an exception for foreign publishers whose periodical investments have been approved under the Investment Canada Act. This exemption is also quite limited. It would only apply to a foreign publisher who wished to invest in a new periodical title in Canada with majority Canadian content. Once again, it would not apply to the vast majority of foreign publishers, nor to their periodical titles not containing majority Canadian content. Finally, this exception is time specific. It only lasts as long as the foreign publisher is in compliance with the Investment Canada Act and its guidelines and policies.

These two exceptions, in their scope and effect, are analogous to the grandfathering exception already in the bill, clause 21, in that they provide an exception in limited instances, and for specific classes of foreign publishers. No one has suggested that the grandfathering of exceptions was beyond the scope of the bill. Equally, these amendments should not be seen as changing the overall nature of the bill.

The regulatory regime set out in Bill C-55 has not been substantially changed by these two amendments. The regime will continue to apply to the vast majority of foreign publishers. By their very terms, the two amendments set out limited and specific exemptions. Therefore, they do not undermine the main principles of the legislation.

Hon. Lowell Murray: Honourable senators, briefly, I wish to congratulate Senator Poulin for making a nice try in an impossible cause.

I can put my point starkly: The purpose, intent and principle of the bill as originally presented to Parliament was to maintain the long-standing exclusion of foreign split-run publications from the Canadian advertising market; the purpose, intent and principle of the bill, as amended, is to let them in. I hope my honourable friend will see that there is a blatant contradiction between the two.

Senator Comeau: You caved in!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, specific to the point of order raised by my honourable colleague Senator Lynch-Staunton, we must be very focused here. It is not good enough for us to allow officials in the ministry to write speeches about procedure in either house of Parliament and have them presented here. We operate as an independent, separate house of Parliament, a legislature.

Senator Poulin: Point of order! Point of order!

Senator Kinsella: Our role is that of the legislative process. We must jealously guard our procedures. His Honour plays an important role in assessing the arguments on points of order that are built upon the foundation of a long tradition in the Westminster system.

On this matter, reference has been made to some of the procedural literature. I wish to draw attention to Erskine May and Beauchesne. In Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, Fourth Edition, there is a citation that is very specific to committee. It is found at the bottom of page 525:

Though a committee has full power to amend, even to the extent of nullifying the provision of a bill...

Honourable Senator Poulin alluded to this in her remarks a few moments ago, when she referenced citation 689 from Beauchesne. Honourable senators, listen carefully to what Bourinot tells us:

Though a committee has full power to amend, even to the extent of nullifying the provisions of a bill, they cannot

insert a clause, reversing the principle affirmed by the second reading...

There is a footnote to that. I would urge His Honour to refer to 251 E. Hans. (3), 1134: May, 458.

Honourable senators, many of us rose to support the bill and the principle on which it was based at second reading. Senator Murray has just alluded to that. However, the principle is not captured in the title of the bill, it is captured in the text of the bill. The operative paragraph is clause 3(1):

No foreign publisher shall supply advertising services...

That is the principle of the bill.

I would refer His Honour to what some of us had to say about the purpose clause being difficult to ascertain. We were concerned about the purpose clause. I had questions as to the constitutionality of the bill in terms of the infringement it places on freedom of expression. In order for the section 1 override provision to apply, then the clear test, as defined in the *Oakes* case, must be met. Amongst those tests is that the legislation and its objective must be clear.

In the absence of a purpose clause, we are forced to go to the operative provision of prohibition, for this bill modifies our freedom. We must look at what it is that is modifying the freedom. It is the prohibition. The law will prohibit and interfere with freedom. That is clause 3(1) of the bill.

• (1540)

The new subclause 21.1, honourable senators, is saying just the opposite. It says that foreign publishers are not prohibited. Clause 21.1 states that this act does not apply to a foreign publisher. Is that not a contradiction? According to Aristotelian logic analysis, no, it is not a denial by the absolute negative; it is not a universal negative proposition in the face of a universal affirmative proposition; but it is certainly a contrary opposition by any standard of logic.

Therefore, honourable senators, clearly the principle of the bill, which we affirmed at second reading, has been denied by this amendment. Therefore, the citation and other citations that have been referenced speak to the unacceptability of this.

The Hon. the Speaker: Honourable senators, Senator Poulin had risen on a point of order. I cannot accept a point of order on a point of order, but I am prepared to hear you a second time after we hear from first-round people.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, let me begin by clarifying and correcting something that I am sure Senator Kinsella would not like to have on the record since it is clearly not true.

The remarks that were prepared for Senator Poulin were not prepared for her by a member of the Department of Canadian Heritage nor by a staff person in the Department of International Trade. They were prepared for her by a member of the office of the Government Leader of the Senate, Mr. Len Kuchar.

Senator Kinsella has nodded over the table that he would withdraw those remarks, and I am pleased that he does so.

Senator Poulin has outlined for us that which must remain the crux of this entire debate: the function of a committee on a bill. Most particularly, she referred to *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, paragraph 689.

It bears repeating that the most important aspect of any bill introduced in this chamber or, indeed, in any legislative chamber, is the title. It is the title that sets forth, if you will, the fundamental principles of the bill. The title of this bill is: An Act respecting advertising services supplied by foreign periodical publishers. The title does not indicate a negative or a positive. It simply says that this will be an act respecting the services supplied by foreign periodical publishers. Therefore, the scope of this bill makes it entirely permissible, under Beauchesne and other authorities, to amend the bill, as was done by members of the committee yesterday and as was reported to the Senate last night and would have been moved had it not been for this point of order.

Honourable senators, this bill is clear. It was clear in its first proposal. It is true that there have been significant amendments; no one is denying that. There have been significant amendments. However, those significant amendments, I would argue, honourable senators, are well within the scope of the bill and it is well within the ability of both the committee and the Senate to adopt them.

The Hon. the Speaker: Do any honourable senators who have not yet spoken wish to participate?

If not, we will hear Honourable Senator Lynch-Staunton.

Senator Lynch-Staunton: Honourable senators, I wish to be allowed a quick summary of an interesting evolution in thinking by two of the parties directly interested in Bill C-55. I would then reinforce — if that can ever be done — Senator Murray's cryptic but accurate assessment of Bill C-55 in its current state and how it stands today with its amendments.

When this bill was first introduced as Bill C-55, it received the absolute and enthusiastic support of the Canadian Publishers Association who, if not actually part of its drafting, certainly were actively consulted prior to the bill's being made public. That is on the public record. I have no objection to that whatsoever.

The Canadian Advertisers Association, on the other hand, condemned the bill, complaining that they had not been part of the consultative process and had only been received by the minister after the bill was tabled. They were so upset by the bill in its original form that they said publicly, in front of our committee and elsewhere, that if the bill were passed in its original form, they would take it to court and challenge it under the Charter's reference to the freedom of expression.

Once the agreement was made known and the amendments followed, the Canadian Publishers Association soundly condemned the bill. I have a copy of an open letter that they wrote to the Prime Minister, which soundly condemns the

agreement, condemns the Prime Minister personally, condemns the Minister of Trade for selling out, and uses language which would not be allowed in this chamber. Their spokesman said on television that anything over 10 per cent meant that they would be financially jeopardized.

The advertisers, on the other hand, gleefully accepted the amendments. We have a complete reversal in approach to the bill by two of the principal parties affected by the bill. If that does not demonstrate a change in the principle and intent of the bill, then I do not know what would. It reinforces our argument that these amendments are completely out of order because they violate the principle of the bill, which is in clause 3(1):

No foreign publisher shall supply advertising services directed at the Canadian market to a Canadian advertiser...

Now they can.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have a brief point to make. With the greatest deference to and respect for Senator Murray — because Senator Lynch-Staunton, the Leader of the Opposition, made reference as well to the point that was made previously by Senator Murray — I submit that Senator Murray is wrong. The thrust of the bill was not to prevent all split-run publications. The thrust was to limit split-run publications in the Canadian market.

After all, the bill did contain a grandfathering provision when it was originally introduced. These additional limited exemptions do not contravene the thrust of the bill which, I submit, was to limit the ability of split-run publications to penetrate the market-place.

Senator Murray: Honourable senators, we are getting somewhat into an analysis of the bill. I suppose it is germane to the question whether the bill as amended by the committee contradicts the bill that was originally presented here.

I stand by my statement that the intent of the original bill was to maintain the long-standing exclusion of split-run magazines from the Canadian advertising market. We are all familiar with the grandfathering provisions that have been there for many years.

The purpose and intent of the bill as amended by the committee is to let them in and to establish the conditions for letting them in. I refer not only to the provisions relating to 18 per cent and so on, but also to the fact that you are abandoning the Investment Canada rules that were put in place by the previous government. The door, which was shut and which was to remain shut under this bill, is wide open now. It is a contradiction.

• (1550)

Senator Poulin: Honourable senators, I find it interesting that, after having generated so much public debate on Bill C-55, we seem now in this chamber to be restarting the work that was done so well by the committee. The hearings provided an opportunity for all stakeholders to express their views on the bill and its potential effects.

Honourable senators, one of our colleagues mentioned that the publishers were consulted about the drafting of the bill. Let us be very clear about this: I believe that the publishers were consulted about the policy. The publishers did not condemn the bill. They expressed concern about the amendments. If my memory serves me correctly, the minister reminded committee members yesterday that the Prime Minister asked her to develop an approach for compensation for those who believe that they will have losses in the Canadian publishing industry.

Senator Lynch-Staunton: Honourable senators, I did not think that should form part of the argument, but if it does, it reinforces my argument. Elements were added with Bill C-55 of which we were not aware. Senator Poulin mentioned the magazine fund. The amendments and the magazine fund are inseparable. If there are no amendments, there is no magazine fund. Surely we have a right to know how much money is involved. This is a pseudo "money bill." The fact that Senator Poulin raises the matter reinforces the argument that these amendments have no reason for being at this time.

Senator Graham: Honourable senators, on the point raised, the bill is self-contained. It does not depend on subsidies. We can pass the bill without any reference to subsidies. One is not dependent upon the other.

Senator Lynch-Staunton: The minister, in her testimony before the committee yesterday, said:

The Senate is being asked to consider these changes...and it is my hope that you will report these changes favourably back to the House of Commons.

There are two other parts of this week's package...

In all, she told us that there are three other parts to this package, and that the amendments are part of the whole package.

She said:

The second point deals with the establishment of a potential Canadian magazine fund to assist the Canadian magazine industry.

That was stated in her testimony, and confirmed in the question and answer period. The minister raised it; Senator Poulin also raised it; I raised it as a secondary argument. It now becomes a main argument, and I am delighted that it is recognized as such.

Senator Poulin: Honourable senators, as was made clear at the committee, neither the minister nor the government are abandoning Investment Canada rules. In fact, it is being made clear that if a foreign publisher complies with those rules, it will not be prevented by Bill C-55 from publishing a Canadian content magazine.

Clause 21.2 harmonizes the bill with the Investment Canada Act. As the Leader of the Government in the Senate has said, this bill is self-contained. The committee set out its objective, and we believe that we have met those objectives by listening to all the

witnesses and all the stakeholders, and by reviewing the bill clausebyclause yesterday. In the result, we are proposing amendments to this bill.

Senator Kinsella: Honourable senators, the matter that has just now been raised was to be the subject of a point of order which I intended to raise, speaking to the issue of whether or not this is now a money bill. If honourable senators and His Honour would find it helpful for me to advance my arguments on that point of order at this time, since there are some interlocking issues, I could do that, or I could wait until this first matter is disposed of. There is no intention on this side to delay this matter, but we wish to have it dealt with properly.

The Hon. the Speaker: The issue of whether or not this bill is a money bill was raised by the Honourable Senator Lynch-Staunton in his comments. Therefore, that matter is already before us, and I am prepared to hear arguments on that point as well.

Senator Kinsella: I thank His Honour for that guidance.

In her testimony before the committee yesterday, the minister spoke of a package composed of three elements. The first element was Bill C-55 and the second was the publishers' fund, which is tied to the bill because it will be a form of compensation related directly to the amendments to be brought forward. Therefore, in committee, we were reflecting upon the fact that we need to look at the bill in the light of this compensation.

Since the announcement of an agreement between Canada and the United States on this matter, it has been public knowledge that there would be a publishers' fund. Mr. Francois de Gaspé Beaubien, the president of the Canadian Magazine Publishers Association, spoke at great length publicly on the weekend about this publishers' fund. Amounts were also discussed, since huge sums of moneys are involved. This has become a very serious issue in terms of there being a money implication attached to the Consolidated Revenue Fund.

I believe that we must consider what committees can and cannot do in dealing with a bill which has, directly and indirectly, clauses that require payments from the public fund.

I refer His Honour to page 524 of Bourinot, upon which I have been relying. Others have been relying upon Beauchesne and Erskine May. At page 524, *Bourinot's Parliamentary Procedure*, Fourth Edition states:

The committee cannot agree to any clauses involving payments out of the public funds...

The minister has testified that Bill C-55 is part of a package which involves significant funds. Bill C-55 is a package which contains three elements, Bill C-55 being but one. The matter is very problematic from that standpoint as well.

Senator Lynch-Staunton: Honourable senators, I am, unfortunately, not allowed to quote from speeches made in the other place. However, I can certainly quote speeches made here. At second reading, Senator Graham explained the principle of the bill. He said:

If, indeed, we wish to ensure the continued viability of our magazine industry, then we must ensure continued access to revenues from the sale of advertising services. That is exactly what Bill C-55 would do. Bill C-55 would prohibit foreign publishers from supplying advertising services...

With the proposed amendments, it will no longer have that prohibition.

Further, he said:

It will guarantee that only Canadian publishers can sell advertising services aimed at the Canadian market...

With the proposed amendments, it will no longer have that guarantee.

Senator Graham also said:

I just said we have no amendments planned nor are any amendments intended.

We took that to mean that this bill would go through committee and be returned without government amendments.

Finally, in answer to a question, Senator Graham said:

Honourable senators, listen carefully. The principles enunciated in this bill are to preserve Canadian culture and to give Canadian magazines, their writers and their editors, a chance to ply their trade and to tell us more about what being Canadian really means. That is the principle behind the bill.

That preservation is gone. The principle has been shattered.

Senator Graham: Honourable senators, reference was made by Senator Kinsella to the package. We are dealing with a bill, not with a package. I challenge the opposition to point to any section of the bill that provides for the spending of any money. There is no such provision.

The so-called publishers' fund could be established irrespective of the fate of Bill C-55. This bill does not create such a fund, nor does it authorize any money whatsoever for any such fund. I submit, honourable senators, that it is quite a leap of faith to say that this might be a money bill because a fund may be established that is not even mentioned in the bill.

• (1600)

Senator Kinsella: Honourable senators, we all know that Bill C-55 has been an odyssey in which the members of this government have sailors going in different directions. What are we to think? Minister Marchi had a view, and Minister Copps had a view which I thought was the right view. Now we have Minister Graham with another view.

The issue, it seems to me, honourable senators, is that we had the minister, the sponsor of the bill, come before our committee. It was her testimony that this is part of a package. That is what we heard from the minister representing the Government of Canada. She happens to be the minister sponsoring the bill. If we have witnesses, particularly a minister, telling us that this is what it is, surely we are to accept what the sponsoring minister tells us about the bill. Surely the sponsoring minister knows more about the bill than we do. This is why we are there listening to her. We take her at her word. This was a package.

Senator Graham: Honourable senators, I am the sponsoring minister in this place. I tell you that the legislation has nothing to do with money.

Senator Lynch-Staunton: You do not support the amendments, then.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak on the combined point of order that was raised, I will take the matter under advisement.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(Honourable Senator Carstairs)

Hon. Mabel M. DeWare: Honourable senators, I rise today with pleasure to speak in support of Bill S-29, which seeks to amend the Criminal Code to ensure greater protection for patients and health care providers regarding palliative care, withholding treatment, and withdrawal of life support.

I commend our colleague the Honourable Senator Lavoie-Roux for introducing this important legislation. I must say that it is long overdue. After all, as Senator Lavoie-Roux has already mentioned, Bill S-29 is in keeping with a recommendation made by the Law Reform Commission of Canada back in 1983. She also noted that the Canadian Medical Association has been asking the government since 1992 for the legal clarification that this bill aims to provide. In addition, Bill S-29 faithfully incorporates certain recommendations made by the Special Senate Committee on Euthanasia and Assisted Suicide. Given that background and the growing public support for clear guidelines, this is a bill that the government is right to have introduced.

I have a particular interest in this bill since I, too, was a member of the Special Senate Committee on Euthanasia and Assisted Suicide. Being on that committee was an emotional experience. We all felt keenly the tremendous responsibility that we had been given. We took our task seriously. We applied ourselves with vigour to the challenge that came with our

mandate. I believe that the report we produced on life and death was credible and well considered. It is a credit to the committee's work that the report has withstood public scrutiny in the four years since it was released. In fact, public interest in it has been so great that it has even had to be reprinted.

Bill S-29 reflects certain of the recommendations contained in the report — namely, those dealing with palliative care, withholding treatment, and withdrawal of life support. As other members of this chamber have already pointed out, it does not address the controversial areas of euthanasia and assisted suicide. There is no question here of reopening that particular debate.

Honourable senators, Bill S-29 is not about death; it is about life. It is about giving Canadians some control over their quality of life when faced with life-threatening illnesses, pain, and serious physical distress. It is about allowing their health care providers to respond to their wishes without fear of prosecution.

Right now, patients and health professionals are navigating uncharted, risky waters. Bill S-29 seeks to chart those waters. It will act as a lighthouse to guide certain aspects of treatment while ensuring that the rights and interests of everyone involved are protected.

Action has never been needed as much as right now. As our population ages, and as new diseases take hold, more and more Canadians must deal with the kinds of situations that Bill S-29 addresses. Advances in medical technology mean that life can often be prolonged well past the point where quality has been lost. As a result, more and more Canadians are drawing up living wills that set out their wishes for treatment in the event that they become unable to express them.

Bill S-29 itself is straightforward. It simply aims to protect health care providers from criminal responsibility, if they act in accordance with clear, informed, and freely given instructions from their patients. It does this by providing for standards and guidelines to be set by the Minister of Health in the areas of life-sustaining treatment and the alleviation of pain and serious physical distress. For example, the minister will identify the circumstances in which medical and surgical practices and procedures constitute life-sustaining treatment and the circumstances that involve the withholding or withdrawal of life-sustaining medical treatment. The minister will also determine reasonable dose limits for medication and the circumstances in which it is ethical to exceed dose limits in order to alleviate pain and other symptoms of physical distress.

Bill S-29 also ensures that the minister will consult with the provinces and health care professionals in establishing those standards and guidelines. There will be a great deal of input into the process.

The legislation itself is pretty simple, but its implications are nothing short of enormous. I must stress that in a positive way, because, thanks to those standards and guidelines, Canadians will have a greater sense of control over their quality of life and health care providers will have a greater sense of security. They will know exactly what they are allowed to do and are not allowed to do when it comes to treating patients who are

terminally ill. There will be more certainty and less guess work all around.

Honourable senators, I wish to restate something that our colleague the Honourable Senator Beaudoin has already mentioned, namely, that decisions in the key areas of palliative care, withholding treatment, and withdrawal of life support are a job for Parliament. There is a legislative void here that we have been asked to fill by professional groups, by individual Canadians, and by the special Senate committee. To be sure, some people may believe that the courts will make those decisions for us; indeed, if we do not make them, they probably will, as new cases emerge and old ones work their way through the system, but that would be a poor reason indeed to not support this bill. As legislators, we have a duty to Canadians to make these decisions ourselves in a manner that reflects their best interests. We should not abdicate that responsibility to the courts. Rather, we should uphold it by passing Bill S-29.

Bill S-29 is an important and timely bill, and I urge all honourable senators to support it. I trust that Senator Lavoie-Roux can look forward to the support of members of both sides of this chamber.

In conclusion, honourable senators, I move that Bill S-29 be referred to the Standing Senate Committee on Social Affairs, Science and Technology for further study.

The Hon. the Speaker: Honourable Senator DeWare, I cannot accept that motion, because other senators may wish to take part in this debate.

On motion of Senator Corbin, debate adjourned.

• (1610)

NATIONAL FINANCE

SUBCOMMITTEE ON CANADA'S EMERGENCY AND DISASTER PREPAREDNESS AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Terry Stratton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Subcommittee on Canada's Emergency and Disaster Preparedness of the Standing Senate Committee on National Finance have power to sit at five o'clock in the afternoon today, Tuesday, June 1, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

CANADA ELECTIONS ACT

BILLS TO AMEND—SECOND READINGS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Rossiter, for the second reading of Bill S-28, to amend the Canada Elections Act (hours of polling in Saskatchewan).—(Honourable Senator Carstairs)

And on the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Grimard, for the second reading of Bill S-27, to amend the Canada Elections Act (hours of polling at by-elections).—(Honourable Senator Carstairs)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I wish to say a few words about both Senator Andreychuk's Bill S-28 and Senator Lynch-Staunton's bill, Bill S-27. Since they are linked to the Elections Canada Act, I should like to say a few words about them both, if that is agreeable.

The Hon. the Speaker: Is it agreed, honourable senators, that Senator Graham be permitted to deal with the two bills at the same time, even though, technically, they are not being dealt with at the same time?

Hon. Senators: Agreed.

Senator Graham: Honourable senators, I wish to say something about Bill S-27 first, which was introduced by the Leader of the Opposition, Senator Lynch-Staunton. This bill, in my view, is a common sense approach to solving a problem that should have been caught much earlier by all of us in this chamber. My thoughts are also the same with respect to Bill S-28, which was introduced by Senator Andreychuk. Frankly, the mere existence of these two bills before us now is confirmation that we failed in our role as a chamber of sober second thought when we had Bill C-63 before us in 1996. That does not happen very often in this chamber, because we generally amend things that need to be amended, and we generally catch such amendments in our examination of all of the legislation that comes from the other place. I congratulate both Senator Lynch-Staunton and Senator Andreychuk for bringing these matters before us.

By way of background, prior to the changes instituted by Bill C-63, polls were open between 9 a.m. and 8 p.m. local time whenever a general election was held. This meant that the unofficial results started to become public as soon as the votes cast in regular polling stations were counted — usually 30 minutes after voting ended in each time zone. Because Canada spans six time zones, these voting hours created the potential for significant results from Eastern Canada to become available before polling closed in parts of Western Canada. That created problems since many western Canadians felt that federal elections were decided before they had even finished voting.

In 1991, the Royal Commission on Electoral Reform and Party Financing, which was then known as the Lortie commission, received strong messages from witnesses at its hearings that some western Canadians were of the view that their votes counted for far less than those of Eastern Canadians. Some even informed the commission that the situation had prompted them not to vote at all, which would be a tragedy in our democratic system. That is why Bill C-63 was introduced in 1996.

That legislation introduced two changes with respect to voting hours. First, the total number of hours for voting was extended from 11 hours to 12 hours. Second, the times for opening and closing the polls were staggered in each time zone across the country. The staggered hours provided for polls to be opened and closed locally from 8:30 a.m. to 8:30 p.m. for Newfoundland and Atlantic time; 9:30 a.m. to 9:30 p.m. for Eastern time; 8:30 a.m. to 8:30 p.m. for Central time; 7:30 a.m. to 7:30 p.m. for Mountain time; and 7 a.m. to 7 p.m. for Pacific time. I mention that merely for the record.

This staggered-hour voting regime was also applied to by-elections because of concerns in Western Canada respecting by-elections occurring concurrently throughout various regions of the country. The new regime was developed to ensure that the majority of election results would be available at approximately the same time. However, I agree with Senator Lynch-Staunton that the rationale for staggered voting hours, which was discussed at the time of Bill C-63, may be less compelling in the case of a single by-election, or even in the case of several by-elections held concurrently in the same time zone.

As Senator Lynch-Staunton said, at the present time “the Elections Act does not differentiate between a general election and a by-election.” I therefore agree with the honourable senator that there certainly is room for improvement in this situation. Canadians should be provided with the most convenient voting times in any election, including by-elections. For Senator Lynch-Staunton, that means between 8 a.m. and 8 p.m. local time whenever a by-election is held, as I understand it. This seems eminently reasonable, though I do not know whether I agree with this proposition in the event of a large number of by-elections being held simultaneously in different regions of the country. In such a situation, the new staggered regime may still be preferable, but that is something that all of us can discuss further.

The hours that polling stations remain open is also the subject of Senator Andreychuk's initiative in Bill S-28. When we passed Bill C-63 in 1996 to establish a system of staggered voting hours, the unique situation with respect to Saskatchewan was not taken into proper consideration. Saskatchewan is the only province that does not switch to daylight saving time, and which has, as Senator Andreychuk described, a provincial statute that allows for local variations during the summer and the winter seasons. Consequently, when the most recent general election was held on June 2, 1997, electors in parts of Saskatchewan were the last in the country to cast their ballots, notwithstanding the objective of the staggered hours regime that those in British Columbia should be the last to exit the polls. Consequently, something needs to be done to address this situation, and that need has been recognized by everyone, including the Chief Electoral Officer.

Honourable senators, I believe that Bill S-27 and Bill S-28 are very commendable initiatives to remedy defects that perhaps should have been caught earlier. It should not surprise us that a committee in the other place has recently conducted an in-depth review of the Canada Elections Act and has specifically recognized the problem that these two bills are designed to address.

• (1620)

I also know that the Leader of the Government in the House of Commons, who is the minister responsible for electoral matters, has been reviewing these issues. In his response to the report of the House of Commons Standing Committee on Procedure and House Affairs, on behalf of the government, Mr. Boudria undertook to introduce an electoral reform bill that, in his words, "would reflect the work undertaken by the committee."

Honourable senators, I believe that the issues raised by Senator Lynch-Staunton in Bill S-27 and by Senator Andreychuk in Bill S-28 are important, and I have brought them personally to the minister's attention. It is my understanding that these issues could very well be addressed in that more comprehensive amending bill to which I have referred.

Consequently, I would ask that the honourable senators await the introduction of this legislation, which I hope will take a comprehensive look at voting hours, as well as other electoral issues, before we proceed much further with these bills. It is my understanding that such a bill will be introduced very soon.

On motion of Senator Carstairs, debate adjourned on both bills.

EXCISE TAX ACT

BILL TO AMEND—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Cochrane, for the adoption of the fifteenth report of Standing Senate Committee on Social Affairs, Science and Technology (Bill S-10, to amend the Excise Tax Act, with an amendment) presented in the Senate on December 9, 1998.—(Honourable Senator Carstairs)

Hon. Gerald J. Comeau: Honourable senators, most would agree that reading is one of the most important skills a person and, by extension, a nation, can possess. Most would also agree that having reading material available is one of the best ways to promote the skill of reading. Simple common sense would tell us that anything that promotes the availability of reading material is, therefore, good, and anything that restricts the availability of reading material is bad. Bill S-10, a bill to remove the GST on reading material, is definitely good.

However, let us not go too fast or be too judgmental. We must take seriously the arguments of those who oppose Bill S-10.

However, we must not be stampeded into thinking that these arguments close the door on debate, or are stronger than the arguments in favour of the bill.

I wish to support Bill S-10 in two ways. First, I will emphasize the good that will come from the passage of the bill. Second, I will examine some of the arguments used by those who oppose the bill, and show that these arguments do not hold true, or that the costs associated with these articles are less than the benefits.

Reading is a gift, and one that those who enjoy can give to others. Academics use the invention of writing as the boundary between the era of history and the era of pre-history. Before writing, the world was filled with darkness. Writing brought light and hope. That boundary was thousands of years ago. Of course, today, the ability to read is a similar boundary between darkness and light.

Witness after witness before the Standing Senate Committee on Social Affairs, Science and Technology — writers, teachers, students, artists, librarians, and publishers — spoke eloquently about the gift of literacy. Writers spoke of the magic of books, and how having reading material available to them as children opened up the world of magic. We can become excited about opening up this world of magic to all Canadian children, but we can also be practical when we discuss the gift of reading.

I do not think there is anyone in the Senate who could imagine a world without reading, without newspapers, books and magazines, not to mention the ever-accumulating mountain of research material needed for Senate committees and, like today, for debating the proposed legislation. We can talk at length about the merits of literacy; we can emphasize the artistic and cultural aspects, the magical elements for some, or we can talk about the practical aspects. Everyone, no matter what their position on Bill S-10, will agree on the importance of literacy. It is important, therefore, to look a bit more closely at literacy to see how Bill S-10 can improve literacy in Canada.

Let me start with what I regard as the flippant opposition to the bill. Such opponents argue that illiterates do not buy books, so how does removing a tax on reading material help them? Most often, the argument is not made quite so harshly. After all, their education requires that they be tactful. This objection is put in another way, namely, that there are better policies available to combat illiteracy.

Let us look at that argument. Supporters of Bill S-10 are not suggesting that it be used as the sole weapon against illiteracy. There are many arrows in the quiver, and all should be tried. Bill S-10 is an important complement to other policies, such as improved education and programs focused directly on acquiring or improving reading skills.

Let us now examine the harsh criticism that illiterates do not buy books. There are two answers to this. First, groups directly or indirectly involved with fighting illiteracy do buy books and reading material. These groups, which often do not have large budgets, would certainly be helped by the removal of the tax on reading material. However, there is a more important argument against this harsh criticism. This argument hinges on the meaning

of "literacy." Too often, we think of only two groups — those who cannot read and those who can read. In fact, literacy is not an all-or-nothing talent. There are levels of proficiency in reading. The major problem in a developed economy such as Canada's is ensuring that enough workers have a relatively high level of reading proficiency.

The International Adult Literacy Survey, IALS, in which Canada takes part, uses four or five levels of proficiency. The results for Canada show real cause for concern. On one set of survey results, 43 per cent of Canadians between the ages of 16 and 65 fall into the two lowest categories of literacy.

Under the old definitions of literacy, that is the yes-no variety, or "Can you sign or read your name?" or "Can you read a simple sentence?" Canada has almost universal literacy. In fact, most developed countries have almost universal literacy under this old definition. However, being able to sign your name is not good enough in the advanced global economy in which Canada must compete. Canadians must read well. Any hope of increasing productivity in Canada depends on having a skilled, well-educated workforce. We must get more of our population into the higher IALS categories. How do we do that? We get those who have the basic skills of reading to practise that skill. In other words, we get Canadians to read more. This is the obvious way to improve any skill.

An obvious way to encourage Canadians to read more is to have more reading material available. We can see where Bill S-10 fits in. Taking the tax off reading material lowers the cost of buying reading material. The GST is only 7 per cent. Thus, it is easy to scoff at the idea that removing the tax will have much of an impact on improving literacy in Canada. There are several answers to this. First, most other countries have the practice of eliminating or reducing the tax on books. That others do something is not a guarantee that it is better than any alternative, including inaction, but it should make us pause to think. If the effects of eliminating the tax are modest, so be it; at least the effects are in the right direction. Even if the effects were minuscule, the symbolic value of eliminating the tax would be enormous.

We can all agree on the benefits of being able to read. We can all agree that literacy is a gift that should be given to everyone. We can all agree that it would be good to improve literacy skills, especially of those whose skills are at present relatively weak. One way of showing such agreement is to support the elimination of taxes on reading.

Let us now look at some of the other objections to Bill S-10.

• (1630)

Most of these objections can be described as economic. To those who oppose Bill S-10, it is not the purpose of the bill that is objectionable; rather, it is that the bill in some way is inefficient. Passage of this bill, to those who oppose it, would have the economy — at least the part of the economy dealing with

government finances — running somehow less smoothly, and the costs associated with the bill would be too great.

Let us begin with the cost. Is Bill S-10 too costly? Reducing the base of any tax will reduce the revenue raised by the tax, of course. The simple cost of Bill S-10, is, therefore, the reduction of revenue from the GST. Witnesses before the Social Affairs Committee offered various estimates of this cost. Representatives from the Department of Finance suggested the cost would run to around \$300 million, while the Don't Tax Reading Coalition put the loss at \$182 million. Neither estimate is minor and both admit to qualifications.

The tax treatment of advertising services may explain part of the difference. Services such as advertising associated with reading material would continue to bear the costs of the GST, so that revenue would not be lost to the government and would not be a cost of Bill S-10.

Another possible adjustment is for increased tax revenue that would follow from any increased activity following the elimination of the tax on reading material. The Don't Tax Reading Coalition suggests that corporate and personal income tax would rise by \$60 million; so their estimate of the cost of Bill S-10 falls to about \$120 million. Again, this is not a small amount, but if we look at this as an investment, it does not seem all that large.

The irony is that the same economists who worry that Bill S-10 is too costly also worry that Canada's productivity is too low. Surely any policy aimed at increasing the skills of Canadians is positive with respect to future productivity. To put it another way, we cannot claim to be concerned with productivity if we are not willing to invest in the skills that will help improve our productivity. Therefore, if you think of Bill S-10 as a crucial investment, its cost seems relatively modest.

Comment has been made that Bill S-10 may be administratively too complex. The Department of Finance noted this cost associated with Bill S-10. They mentioned economic efficiencies, consumer fairness and administrative compliance. Bureaucrats worried that removing the GST from reading material would introduce too much complexity into the system.

Let us look at the harmonized sales tax, the HST, which is based on an agreement that the federal government has with three maritime provinces, New Brunswick, Newfoundland and Nova Scotia, to see how the complexity of removing the tax on reading material from the base can be handled.

Technically, the HST is applied to all reading material, and a rebate of the provincial component of the tax is available on the purchase of qualifying books. In fact, the rebate occurs at the point of sale, so that the provincial component is, in effect, never really paid.

Quebec has a sales tax agreement with the federal government that, although different from the HST agreement, also has the point-of-sale remission of the provincial component of the joint sales tax.

Has anyone heard any serious complaints that this handling of reading material under the HST or in Quebec is too complicated? Has anyone seriously suggested that the differential treatment of books under the HST will somehow undermine the HST system? The answer is, "No." The conclusion is that the GST system could also handle such an exclusion from its base.

The operation of the HST also shows how any complexity caused by a specific definition of reading can be handled as well. Relief from the provincial component of the HST is only for books, which are defined to include talking books, bound scriptures from any religion, and subscriptions to scholarly journals. Booksellers who appeared before the Social Affairs Committee noted that most of them have computerized registers that make administrative compliance costs negligible.

Any adjustment to existing legislation introduces complexity into the system. It is always easy to assert that the change will introduce too much complexity. This is the classic case for the status quo, but there are times when change is both good and necessary.

One fear expressed before the Social Affairs Committee was that removing the GST on reading material would lead to more and more demands that other goods and services be removed from the base. Mention was made of home heating fuels and children's clothing. There are many other candidates for special treatment. That is not all that unusual. Every tax attracts special interest groups who think they should be excluded from the tax base. That is true in every country and for every era in which governments have used taxes to raise revenues. We know that and the Department of Finance knows that. We can rest assured that the officials at the Department of Finance have become very good at saying, "No." Sometimes, and for very good reasons, the officials at the Department of Finance do in fact say, "Yes." They do give tax relief to certain groups. This could be for farmers, for seniors, for those on low incomes or for environmentalists. The Department of Finance must weigh the benefits of excluding a group from the tax base against the financial and other costs.

Although the GST is a constant 7 per cent across Canada, and across all the items covered by the tax, readers of French-language books may bear a greater burden in terms of the amount of GST they pay on their reading material. The reason is quite simple. French-language books tend to cost more than the equivalent English-language books. There are several reasons for that. French-language books that are imported have higher transportation costs than English-language books that are imported, most often from the U.S. Many of the French-language books sold in Canada are translations of English books, such as best-selling novels and popular textbooks. The result is that the translated books cost more than the originals. A final reason has to do with the size of the French-language market in Canada. Publishers of French-language books do not benefit from the economies of scale.

Consequently, the readers of French-language materials in Canada spend more on GST for their reading material than do readers of English-language material. That may seem like a minor inequity but it is one that passage of Bill S-10 would help us correct.

If I might take the Senate's time, I should like to make honourable senators aware that, as of two or three days ago, the Quebec Federation of Home and School Associations Inc. sent a letter to one of our colleagues, Senator Di Nino, which I should like to read into the record. It states:

Quebec Federation of Home and School Associations Inc. passed the enclosed resolution on "Goods and Services Tax on Books" at its 55th Annual General Meeting on April 24, 1999. A copy of this resolution, in "national" form, has been forwarded to Canadian Home and School Federation in order that the ten provincial affiliates can ratify it at the Canadian Home and School Federation annual meeting being held in Victoria, B.C., this July 6-8, 1999.

We sincerely hope that support for your initiative is instrumental in removing the GST from reading materials. We have laboured for many years to facilitate reading and literacy in Canada and feel strongly about this issue.

We hope to have good news from you shortly.

That goes to show that we are not alone in requesting this removal of the GST on books.

I have examined the costs and the benefits of Bill S-10. Along with the Quebec Federation of Home and School Associations, I would ask all honourable senators to support the removal of the GST on reading material. I hope I can count on your support when this bill is finally put to a vote.

The Hon. the Speaker: If no other honourable senator wishes to speak, this item will remain standing in the name of the Honourable Senator Carstairs.

SECURITY AND INTELLIGENCE

REPORT OF SPECIAL COMMITTEE ADOPTED AS AMENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Kelly, seconded by the Honourable Senator Beaudoin, for the adoption of the Report of the Special Committee of the Senate on Security and Intelligence, deposited with the Clerk of the Senate on January 14, 1999,

And on the motion in amendment of the Honourable Senator Carstairs, seconded by the Honourable Senator Fairbairn, P.C., that the Report be not now adopted, but it be amended by deleting recommendation No. 33; and

That recommendation No. 33 be referred to the Standing Committee on Privileges, Standing Rules and Orders for consideration and report.—(Honourable Senator Pépin)

Hon. William M. Kelly: Honourable senators, it is my understanding that I can speak at this point. I understand from both the Deputy Leader of the Government and Senator Pépin that that is in order.

Honourable senators, I should like to move adoption of the report as amended. First, however, I should like a chance to explain.

The Hon. the Speaker: Honourable senators, in view of the fact that this item is standing in the name of the Honourable Senator Pépin, I should like to have the assurance of the Honourable Senator Pépin that she is in agreement.

[*Translation*]

Hon. Lucie Pépin: I am in agreement with the proposal.

[*English*]

The Hon. the Speaker: It is moved by the Honourable Senator Kelly, seconded by the Honourable Senator Murray, that the report, as amended, be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

• (1640)

Senator Kelly: Honourable senators, my reason for that is simple: I believe that Senator Corbin very eloquently described what was meant by the Senate committee, which we referred to in our report. However, I agree with Senator Carstairs that that can lead to some misunderstanding as to the nature and the future of such a committee. I believe that Senator Carstairs' amendment will provide an opportunity for further discussion on that particular element. Therefore, if the report is adopted as amended, I can assume that the balance is satisfactory, and I can assume that the committee will have an opportunity to review its situation and go before the rules committee when it is appropriate.

The Hon. the Speaker: Honourable senators, I assume that we are proceeding with leave here, because there are two separate motions which have been made into one, without a vote but with leave. I understood that to be the case. Is that correct?

Hon. Senators: Agreed

Hon. Eymard G. Corbin: Honourable senators, last evening I said that I would not support Senator Carstairs' amendment to the report. However, since uttering those fatal words, she has spoken with me and explained the circumstances, indeed, the process by which we can achieve the objective outlined in the recommendation of the committee. Therefore, the misunderstanding was totally on my part. I feel embarrassed; however, that is not unusual for a parliamentarian. I take it in stride. Therefore, I subscribe to Senator Kelly's proposal.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the motion.

It was moved by the Honourable Senator Kelly, seconded by the Honourable Senator Pépin:

That the report of the Special Committee of the Senate on Security and Intelligence, as amended by Honourable Senator Carstairs, be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

SECURITY INCIDENT AT VANCOUVER APEC CONFERENCE

MOTION TO ESTABLISH SPECIAL COMMITTEE—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare:

That a Special Committee of the Senate be appointed to examine and report upon the conduct of the Prime Minister, the Prime Minister's Office, the Minister of Foreign Affairs, the Solicitor General and the Privy Council Office in the security arrangements for the Asia-Pacific Economic Cooperation Conference held in Vancouver in November 1997, and any issues subsequently arising therefrom. In particular, the allegations that political motivations rather than security considerations were used unlawfully which resulted in the violation of the constitutional right to freedom of expression, freedom assembly and freedom of association of certain Canadian citizens and the suppression of legitimate protest.

That seven Senators, nominated by the Committee of Selection act as members of the Special Committee, and that three members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses under oath, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee have the power to engage the services of such counsel and other professional, technical, clerical and other personnel as may be necessary for the purposes of its examination;

That the political parties represented on the Special Committee be granted allocations for expert assistance with the work of the Committee:

That it be empowered to adjourn from place to place within and outside Canada;

That the committee have the power to sit during sittings and adjournments of the Senate;

That the committee submit its report not later than one year from the date of its being constituted, provided that if the Senate is not sitting, the report shall be deemed submitted on the day such report is deposited with the Clerk of the Senate.—(Honourable Senator Carstairs)

Hon. Lowell Murray: Honourable senators, I, too, have had the opportunity for a brief word of prayer with Senator Carstairs, and she has graciously agreed that I could intervene at this point, although the adjournment is standing in her name, on the understanding that, when I have finished, the adjournment motion will remain in her name.

I have been waiting for many months to get this speech off my chest. I prepared notes for a speech over the Christmas holidays, as a matter of fact. However, Senator Kinsella was so tardy in taking up his motion that the whole winter went by, and most of the spring before the opportunity presented itself. I did not wish to wait another moment after Senator Kinsella had opened debate, as he did yesterday.

I intervene because I believe that the problems we face in this area go well beyond the events that formed the subject of Senator Kinsella's motion and of this debate. The problem, in my view, lies in the repeated attempts by government to subordinate legal and constitutional values to administrative or political convenience.

Two issues, in particular, are of concern to me, even as a layman. First, legal and constitutional values do not seem to have the primacy they should have, and once had, in government. Politicians and bureaucrats, instead of seeking to conform their actions to these values, try to circumvent them.

Second, we are badly served by the lack of rigor and vigilance on the part of the very ministers and officials whose primary duty it is to maintain these values, to ensure due process and to protect the rights of Canadians. I refer to the Minister of Justice and to the Solicitor General. APEC, the issue which gave rise to Senator Kinsella's motion, is but the most recent example. I intend to discuss APEC, but I wish to call some other episodes to your attention, not for the purpose of debating them again but to ask you to reflect on the generality of the problem I have raised.

The five other episodes I wish to refer to in passing are the first redistribution bill brought in by the present government in 1994; the Pearson airport bill, the Somalia inquiry, the Airbus scandal, and the gun registration law passed by the Thirty-fifth

Parliament. As I say, I assure you that I will not rehash all of the issues involved, but there are some central issues and a certain commonality to these episodes that I should like to draw to your attention.

We all recall the bill — one of the first to pass the House of Commons in 1994 — that would have postponed the decennial redistribution of seats in the House of Commons. The redistribution commissions, which had completed the bulk of their work, were to be dismissed; new commissions were to be appointed. As a result of that bill, the 1997 election would have been conducted on the basis of the 1981 census instead of the 1991 census. It was somewhat shocking to see how 30 years of impartial redistribution process were to have been swept aside for the short-term political advantage of Liberal MPs from Ontario.

One understands, even sympathizes, with the indignation of rookie MPs who want "their" constituency boundaries unchanged and were dismayed by the prospect of a redistribution so soon after their first election. One understands their dismay. However, what is one to make of the failure of the Prime Minister and of senior cabinet ministers to protect the integrity of the process against the unreasonable demands of the Ontario caucus?

In 1994, this was a new government, but some of the ministers had had long experience in Parliament and in previous Liberal governments. One of the most senior of those ministers, Mr. Gray, was complicit in — indeed, was the sponsoring minister of — this attempted travesty.

Another question arises: What kind of advice was offered to the government by its legal officers? That question is relevant in light of the weight of evidence presented at the Standing Senate Committee on Legal and Constitutional Affairs. The jurisprudence cited to us left little doubt that this assault on the principle of relative parity of voting power was so blatant that the bill would not likely stand up to a constitutional challenge in court.

Several expert witnesses in Canadian electoral law, who had no partisan axe to grind, testified on this point, and others were available. What was striking and troubling was that the government and its advisers refused even to respond to these concerns. The caucus and cabinet were determined to have their way, regardless of the principles and the tradition that was being violated. Fortunately, the Senate stopped the exercise.

The next major initiative that offended legal and constitutional values was the Pearson airport bill, Bill C-22, which passed the House of Commons in June, 1994. The Standing Senate Committee on Legal and Constitutional Affairs heard from 12 outside witnesses, most of them legal and constitutional experts. All but two of them, as I recall it, said that the bill was unconstitutional. These impartial experts told us that the bill was contrary to the rule of law, which is a basic principle of our Constitution. We were told that the bill offended several provisions of the 1960 Canadian Bill of Rights, that it violated

Canada's international obligations, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the North American Free Trade Agreement. At least one witness said it contravened the 1982 Canadian Charter of Rights and Freedoms. All these outside witnesses focused much of their opposition on the denial of access to the courts contained in Bill C-22.

• (1650)

As honourable senators will recall, we amended Bill C-22 by removing the offending passages and we sent it back to the House of Commons. The government, unmoved by legal and constitutional objections, immediately rejected our amendments and sent the bill back to the Senate.

We all understand the political background to that bill, notably the campaign rhetoric in October 1993 concerning the Pearson airport contract. Even so, I remain astonished that such a bill emerged from the cabinet process. That process has its own internal checks and balances that are supposed to ensure, among other things, that the actions of the government are within the parameters of our constitutional and legal traditions.

In a case such as the Pearson airport bill, the legal advisors to the government, starting with the justice minister, have a duty to stop it coming out of the cabinet process. Their duty, surely, is not just to say "Yes, minister" to a colleague, but sometimes "No, minister" and sometimes even "No, Mr. Prime Minister." Their duty was to point out to their colleagues that this bill was Draconian and punitive, well beyond the bounds of what is generally considered proper in Canada's democratic culture. They should have pointed out to their colleagues that the bill was unprecedented in Canada's Parliament since the wartime internment of Japanese-Canadians and the seizure of their properties.

Honourable senators, the legal and constitutional authorities in the government, from the minister on down, did not in this case uphold the principles and criteria of their profession. They went along all too easily with an abuse of political power by the government. Happily, the bill was killed in the Senate.

Two years later, the government shut down the judicial inquiry examining the conduct of Canadian troops in Somalia and of their military and civilian leadership there and in Ottawa. I need not go into the shameful nature of the crimes that were committed in Somalia, nor need I remind you of the grievous misconduct charged by the commission against people in responsible positions, most of whom are still in responsible positions in Ottawa.

That commission was presided over by a sitting judge of the Federal Court of Canada. One of its members was a former Superior Court judge. The government had previously evaded questions on Somalia by invoking the impartiality of the commission and its determination to search for and find the truth.

The Hon. the Speaker: Honourable senators, order, please. If conversations are necessary, would honourable senators please conduct them outside the chamber, so that we may hear the speaker.

Senator Murray: Thank you, Your Honour.

The search for truth ended abruptly when the commission was aborted. The truth about responsibility and accountability for what happened in Somalia and subsequently has not been established. However, that so many questions affecting individual conduct have been left up in the air must surely offend against natural justice.

As with the Pearson airport bill, the decision to terminate such a judicial inquiry before it had completed its work was completely without precedent. How can this happen in a country where the rule of law is paramount and where we have always assumed that government respects our legal and constitutional traditions?

Honourable senators, the system is failing us. It is serving to accommodate and expedite abuses of bureaucratic and political power rather than restrain or prevent them. The time-honoured, traditional lines of authority, responsibility and accountability in the two justice portfolios have fallen into disorder. That was blatantly evident in two quite outrageous cases that go by the names "Airbus" and "APEC."

Consider the parts played in the Airbus scandal by the two ministers to whom I have referred; namely, the Minister of Justice and the Solicitor General. In the case of the Minister of Justice, who was Attorney General of Canada, we are told that he had no knowledge of a letter sent out on his behalf by a relatively junior official to the legal authorities of a foreign country, falsely accusing the former prime minister of fraud and corruption. It is inconceivable that this could happen in a system of government in which ministerial responsibility is the operating, constitutional principle. Yet, there are people in and around the present government who still defend this apparently deliberate failure to involve the minister. A minister, it is suggested, must be kept ignorant of such matters so that he cannot be accused later of having exercised improper influence on the process.

This is a sad commentary on present-day thinking in political and bureaucratic circles. Today, the game is to provide cover for ministers and high officials. They are allowed to slip out from under the lines of responsibility and accountability and cloak themselves in what is called "plausible deniability." Was this not the essence of events surrounding the Somalia scandal, Airbus and APEC? Plausible deniability is the antithesis of responsible government. Plausible deniability is officially sanctioned irresponsibility.

People chosen to serve in high office derive many satisfactions from the experience. In return, they are supposed to set high professional standards. They should not flinch from, or try to disperse or offload responsibility for difficult or disagreeable decisions.

One of the burdens that justice ministers and solicitors general must bear for the privilege of serving in their high offices is that they become privy to secret information from the police and security services. They need this information in order to provide proper political direction, in Parliament's name, to those for whom they are responsible. The burden of much of this information is not one these ministers may properly share with their political staffs nor, in most cases, even with cabinet colleagues. A minister who has so little confidence in his own reputation and integrity that he would prefer not to be informed so that he can hide behind plausible deniability is quite unworthy to serve in those portfolios.

In the case of Airbus, the Solicitor General knew all about the request to the Swiss authorities while his colleague the Attorney General of Canada, we are told, knew nothing. This is astounding.

I was also astonished to learn that the briefing notes on this matter were prepared for the RCMP by a member of the Solicitor General's political staff. The role of political staff is essentially partisan. They should not be privy to criminal investigations and other sensitive matters. Ministers must be informed because they are accountable and ultimately responsible.

In the case of Mr. Herb Gray, the record shows that, as Solicitor General, he did absolutely nothing to satisfy himself as to the propriety of the actions taken by the police and the soundness of their recommendations; nor, it appears, did he think it necessary to advise or consult with the other minister directly responsible, the Minister of Justice and Attorney General of Canada.

Early in the process, the Minister of Justice, Mr. Rock, was having his ear filled with defamatory scuttlebutt over dinner by journalist Susan Delacourt. RCMP investigators were trading rumours with author Stevie Cameron. Later on, but before the infamous letter to Switzerland surfaced in *The Financial Post*, Liberal spin-doctors were trying to pedal the so-called Mulroney story to the media. Obviously, information was being divulged to unauthorized people. Is this the way we wish to see justice done in Canada in the future?

What we know of the APEC situation reinforces the impression that something is seriously amiss in government's respect for constitutional and legal values. The APEC affair had its origin in the attempt by the government to use the power and authority of the police and security services for purposes that are political or diplomatic, and outside the proper bounds of police concern or activity.

The Hon. the Speaker: Honourable Senator Murray, I regret to interrupt you, but your 15-minute period has elapsed. Are you requesting leave to continue?

Senator Murray: I hope I would have the indulgence of the house, as I am just about to get to the subject-matter of the motion.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Senator Murray: Thank you, honourable senators.

The APEC affair had its origin in the attempt by the government to use the power and authority of the police and security services for purposes that, while legitimate, are political and diplomatic, and outside the proper bounds of police concern or activity.

The role of the police and security services in connection with events such as the APEC conference is to ensure the physical security of those in attendance. It is not the job of the police to ensure that the Canadian Prime Minister and our foreign guests are spared political embarrassment. It is not the job of the police to ensure that public demonstrations or protests are conducted out of sight and hearing of our Prime Minister and foreign leaders.

• (1700)

Yet the public record shows that these and related duties were quite improperly pressed upon the police and security services by the government, in particular by political advisors in the Prime Minister's Office. To employ the police and security forces to those ends is an abuse of power that is likely to lead, as it did, to violations of individual rights.

The issue was neatly summarized in an e-mail sent in November 1997 by an RCMP inspector to his superior officer. It read:

Banners are not a security issue. They are a political issue. Who is looking after that? If they are not going to be permitted, what is the authority for removing them and who is going to do it?

That RCMP inspector knew that there is an important distinction to be observed between the proper mandate of the police, on the one hand, and the political and diplomatic objectives of the government on other. The top leadership of the police and security services should never have allowed police and authority to be co-opted for political or diplomatic ends. How could this have happened?

Political accountability for the police and security services lies with the Solicitor General of Canada. Primary responsibility for the integrity of our legal system is with the Minister of Justice. Where were those two ministers as the police and security preparations for the APEC conference went forward in the summer and fall of 1997?

The public record shows that the exercise was driven by officials from the Department of Foreign Affairs and International Trade, by political advisors and media strategists from the PMO, and by policy secretaries from the Privy Council Office, all seeking to superimpose their respective priorities and criteria on the police and security function. The two ministers most directly responsible seem to have been sidelined by central agencies and interdepartmental committees. Honourable senators, governance by interdepartmental committee is making a shambles of ministerial authority, responsibility and accountability.

In the case of the justice portfolios, the dangers are most acute. Government needs to be reminded that the police and security services are not just another function to be integrated into the overall policy of the government. Governments change; policies change. The police and security forces owe their loyalty not to transient governments and policies but to the principles and traditions that underlie our democratic and legal system. They are politically accountable to a minister and he is accountable to Parliament. That relationship should be kept clear and direct, not crowded and confused by other agencies with other agendas. The intervention of other agencies and other agendas in the police and security function is the root cause, in my opinion, of the problems that arose in connection with APEC.

Let me mention one final instance in which our legal and constitutional traditions are being severely strained. I refer to the gun registration law passed by the 35th Parliament. That was an exercise of the criminal law power that the Constitution assigns to the federal Parliament. As with most such matters, the responsibility for enforcing the law lies with the provinces. In this case, four of the provinces have challenged the constitutionality of the new law and the Supreme Court of Canada will ultimately decide the case. Regardless of the outcome, at least three of the provinces are refusing to administer the registration. It is surely unprecedented in this country for a federal government to push ahead with new criminal laws in the face of such significant provincial opposition. Surely a greater measure of federal-provincial consensus is necessary for initiatives of such importance, engaging as they do some of the most serious constitutional responsibilities of both orders of government.

In the absence of such a consensus, officials of the federal government are now propounding the most extraordinary doctrine yet: that of a checkerboard pattern of enforcement across the country. Media reports of November 27, 1998 quote Mr. Jean Valin, public affairs director of the Canadian Firearms Centre, a branch of the Department of Justice, as follows:

If provinces are reluctant to enforce laws of the land...they have the choice to interpret things loosely or tightly. The law is no different but what is different is the enforcement. The enforcement continues to be a local police issue...and every police officer will tell you there's some discretion and judgment-call in how you characterize an offence. This is good news for the West. It's like a speeding ticket...the police have some degree of latitude.

Excuse me, honourable senators, but it is not like a speeding ticket. The government invoked Parliament's criminal law power to impose tough conditions on gun owners. The justification they offer for this extraordinary intervention is that it will reduce homicides and suicides. Now they are telling the police to enforce the law like a speeding ticket. To paraphrase a distinguished Canadian, the criminal law is not a general store.

As we know, the end does not justify the means. The exercise of political or bureaucratic power, even for commendable purposes, must respect legal and democratic norms that Canadians have assumed to be constant in the governance of this

country. Consider the principles the government violated in the six examples I cited: the rule of law, due process, access of citizens to the courts, the independence of the judicial inquiry, the presumption of innocence, the responsibility of ministers for actions taken in their name, the limited purview of the police and security services, and uniform enforcement of the criminal law across the country.

From outside the government, it appears that the constraints on the excessive use of bureaucratic and political power are not working as effectively as they should. It also appears that ministers in the justice portfolios, and perhaps their advisors, are, at best, muddled about their duty. They must apply a higher standard to government action than administrative convenience or *realpolitik*. When legal and constitutional values are at issue, they must seek to impose that standard on their cabinet colleagues.

Do not underestimate the power of bad precedent. It is a sure-fire incitement to new abuses of authority. When ministers in some future government, perhaps of a different political stripe, are contemplating some appealing but extraordinary exercise of their power, you can be sure that they will be told that the Chrétien Liberals did it in the 1990s. That is almost always sufficient argument for the hesitant to overcome their scruples.

The Hon. the Speaker: Honourable senators, this matter will remain standing in the name of the Honourable Senator Carstairs.

STATUS OF PALLIATIVE CARE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Carstairs calling the attention of the Senate to the status of palliative care in Canada, in recognition of National Palliative Care Week.—(Honourable Senator Wilson)

Hon. Lois M. Wilson: Honourable senators, one of my granddaughters, 17-year-old Nora Casson, wrote in a high school essay:

Palliative care, the competent care for people who can't be cured, is a relatively new science. There will likely be many new advances in the field in the next twenty years. Most people ask for help in committing suicide because they are afraid of pain or they are not being treated well enough. Palliative care is not a priority for three reasons. We do not like to dwell on failures: we like to succeed, therefore most of our money is put into projects that will cure people. Secondly, it is hard to do research in palliative care because the patients usually die before the research project is over. Thirdly, palliative care is an empirical science, saturated with emotions from everyone involved. As most science is not emotional, palliative care is not yet recognized as an important science.

In many religious traditions, life is seen as something larger than an individual person's ownership of it and therefore is not ours to discard. Religious communities share a long history of providing many forms of health care, healing and support of the suffering and the dying. This has been expressed in the central role they have played in the development of hospices and palliative care institutions in many parts of the world. Through these practices, they bear witness to the possibility that human life can have dignity and meaning even in the context of the realities of pain, suffering and death.

• (1710)

In the West today we tend to shrink from ageing and death and seek all possible means to postpone both. For many, death is a taboo subject, a fearful prospect, an admission of defeat.

I was at a university college with Margaret Laurence, Canada's distinguished novelist. When she knew she was dying, she phoned me to ask if I would conduct her burial service, but more important, would I come and talk to her about her dying. "Nobody will talk about it," she complained.

Denial of death sets the stage for much inappropriate behaviour, such as demanding or accepting unnecessary and non-beneficial treatment, and, thereafter, confusion and conflict often develops because of withdrawal of treatment.

As you know, the 1995 Special Senate Committee on Euthanasia and Assisted Suicide studied the issue of palliative care, making five specific recommendations with respect to it. I fully support those representations, and wish to comment on three matters mentioned in that report — national standards, research and funding.

When the special Senate committee issued its report in June 1995, one of the recommendations, as you know, was to develop national standards. In October 1995, the Canadian Palliative Care Association, founded as recently as 1991, published draft standards of palliative care that are outcome-based and designed for use in any care setting by an interdisciplinary team. Since that time, 5,000 copies of the standards have been distributed throughout Canada. During 1997 and 1998, a series of 17 workshops involving over 700 caregivers was held to develop a national consensus related to those standards. At the conclusion of the first cycle of workshops, consensus was reached on more than 80 per cent of the content, yet government support for this process has been minimal to date.

The Canadian Palliative Care Association is about to launch a second round of consensus-building workshops with the goal of issuing a final document in the summer of the year 2000. While that in itself will be a major accomplishment, an even greater challenge will be to ensure that the more than 500 programs that provide palliative care base their programs and services on these consensus standards.

Increased research into palliative care has been identified as a primary strategy to improve the quality of care for dying patients

and their families. Eight key research areas were identified by the Canadian Palliative Care Association. I wish to comment on one of those areas, since it is not usually included as a research priority. It is existential and spiritual concerns.

Fundamental research and study is required to describe the issues of meaning, and people at risk of suffering as a result of spiritual concerns at the end of life. Are there alternative interventions that can reduce suffering as a result of perceived non-meaning? What supports can caregivers provide to individuals and families in response to spiritual concerns? What approaches are used in different cultures to derive meaning at the end of life? That is only one area out of eight that is in need of research.

Palliative care investigators can provide important leadership by defining a broader research orientation that would be useful in many other fields of health research. Biomedical research is very different from palliative care research, for example. Traditional biomedical research is focused on the search for a cure, whereas palliative care research involves the quest for new ways to alleviate suffering when a cure is not possible. Biomedical research focuses on fundamental mechanisms that could lead to new treatments of disease, whereas palliative care research focuses on these mechanisms, as well as the illness experience of the individual in the family. Illness is much more than a disease; it takes into account the experience of people who are journeying through the disease and its treatment, and the meaning of these events to the individual, the family and the community. Biomedical research can be imported from another country, but palliative research cannot because it may not be relevant to the cultural context of many Canadians. The need is to evaluate approaches to assist new immigrants in supporting their dying loved ones in a manner consistent with their cultural values.

All eight of the defined research areas need to be pursued simultaneously if significant advances are to be made. All types of research are needed and must be congruent with the proposed structure for the Canadian Institute for Health Research, an initiative taken by the federal government in February of 1998. It proposes that health research in Canada provide an opportunity to situate palliative care research in a framework relative to other health research.

We need to remind ourselves that improvements in care for the dying have been invariably preceded by significant research breakthroughs. Basic research identified the control centres in the brain for nausea and vomiting and led to the development of drugs which greatly reduce this distress in dying patients. Development of the route for fluid and drug administration transformed the ability to care for dying patients in the home setting. Desire for death was shown to be strongly associated with depression in dying patients, providing important information to guide social policy in Canada. Development of measures of family satisfaction with care and with quality of life in the dying provide a basis for evaluating the effectiveness of different approaches.

All of this is dependent on increased funding and support for new investigators, who will provide leadership to move the field ahead for the next generation. The researchers need protected time to pursue long-term, systematic programs of research so that they can devote themselves to research and training in the field.

Much previous funding for palliative care research has been in the form of small grants for specific projects, but major advances in knowledge require long-term, programmatic research funding, such as is available to biomedical scientists. This means an investigator in palliative care should be able to apply every three to five years to a major funding agency for a grant to support ongoing research. Such nationally funded investigators should be eligible for renewal of funding over the period of their career. This approach provides stability to the research enterprise, enabling investigators to retain the research staff they have recruited and trained over a period of years. Such research staff members are central to the discovery and application of new knowledge in the palliative care field. Failure to support such an approach may well result in needless suffering for dying patients and their families and increased pressure for euthanasia and assisted suicide. Support for such an approach will ensure that all Canadians receive end-of-life care in comfort and with meaning, even in the midst of suffering.

On motion of Senator Corbin, debate adjourned.

[Translation]

AFRICA

STATE VISIT OF GOVERNOR GENERAL TO IVORY COAST, TANZANIA,
MALI AND MOROCCO—INQUIRY—
DEBATE ADJOURNED

Hon. Eymard G. Corbin, having given notice on Thursday, March 18, 1999:

That he will call the attention of the Senate to his observations and thoughts arising from 16 days spent in Africa with Their Excellencies the Governor General of Canada, the Right Honourable Roméo LeBlanc and his wife, Diana Fowler LeBlanc, who were carrying out the first Canadian state visit to the Ivory Coast, Tanzania, Mali and Morocco.

Honourable senators, my reference to the state visit of the Governor General of Canada in February 1999 to four countries in Africa, in which I took part, is simply an opportunity for me to share with you my concerns and my hopes for Africa as a whole. My comments are the result of over 25 years of meetings, contacts, readings and visits. I claim no special qualification to offer an expert treatise on the African challenge, having never, in the first place, travelled in all of the countries and having only stayed short periods of time. I have not been involved either in the humanitarian aspect of the African challenge, that is the work of non-government organizations and the many private initiatives. However, I know that this goes on, and I know they

do good work. But today, I want to focus on the political aspect of the problems and conditions of our involvement in African development.

There are four main parts to my remarks. After general comments, I will focus for a moment on the challenges of democratization in Africa. I will discuss the remarks by the Honourable Diane Marleau, Minister for International Cooperation, to the African Development Bank and, in conclusion, I will draw a parallel with the new Dutch policy on development.

In speaking of Africa, should we use the singular or the plural? Is there one Africa or are there Africas? How do Africans refer to themselves?

The African continent comprises 53 states, home to over 800 ethnic groups that express themselves in a myriad of languages, traditions and cultures. Among them, some have been influenced by the Phoenicians, the Romans or the Arabs. Of the second influence, only ruins remain. More recently, however, there have been European, Islamic, Indian, Christian and many other influences, which have remained part of the new African society. There were the colonial and post-colonial eras and now, we have the present.

How does one speak about Africa objectively and frankly without wounding and lapsing into condescension? To speak about things African in a way that respects the African soul and African choices is very difficult for us in North America. I personally have had some very good experiences. I have reworked and rethought a number of passages in my speech because I have noticed that even the words we use to describe our relations with Africa are constantly evolving. I admit my inability to take in intellectually the cultural vastness of this continent and to comprehend its political variations and tensions, exacerbated as they often are by the conflicts which constitute the reality behind the mask of initial impressions but which later events seem in fact to bear out.

Fifty-three states where the pre-colonial, colonial and post-colonial periods are still very much a part of mentalities, both in the form institutions take and in the for the most part artificially imposed political boundaries. Africa is a country of extremes, with a nonetheless extraordinary potential, despite the coveting, exploitation and destruction it has seen, as in Sierra Leone for instance. The cradle of humanity, Africa is today occupied by nations engaged in an often difficult evolution towards a democracy that is inventing itself and adapting to the realities of the land and to mentalities that respect traditional values, that is authentically African in nature. It was not so much ruins that colonialism left, as ways of acting, thinking, associating and carrying on trade that serve as links with the rest of the world but that are not necessarily felicitous for the internal management of the country. All this has not, however, prevented the original peoples from continuing to develop and to express themselves at their own pace and in their own way, sometimes breaking new ground.

Africa is also the disturbing face of poverty, of appalling living conditions, explosive birth rates and infant mortality rates among the highest in the world. It is poverty that could even pose a threat to the continued existence of budding democratic institutions, according to certain commentators. But what proud people, and how hungry they are for justice.

Always a remote continent for us North Americans, Africa is often seen through the blurry, distorted glass of opinion, propaganda, media bias, when it is not outright lies.

And yet, Africa is so full of promise. Here and there, in spite of the corruption and abuse of power, some real gains are being made toward true democracy. These gains have much more to do with who is in office than with the strength and permanency of institutions under the rule of law. However, political corruption, misappropriation of funds and violation of freedoms are definitely not to be found only in Africa. We need look no further than our own backyard.

While colonialism sullied Africa and sometimes corrupted it through bad example, it did not kill its soul. Traditional palavers under the sacred tree have lost none of their importance, even though the elders' wisdom is increasingly challenged by an impatient younger generation. It is not only cultural clash, but also a choice of values that will have a bearing on the options for the future.

There is a population explosion in Africa. Fifty per cent of Mali's population is under 15 years of age. Niger is the poorest country, but it is also one with the highest birth rate. Who cares about that in Canada?

Secrecy and safety at the ballot box are well-established principles here, but they do not necessarily correspond to the traditional African approach to democratic expression. Unfortunately, with only a few exceptions, Africa is a continent plagued by dictators, despots, exploiters, brigands, and even slavers. It is prone to bloodbaths, to horrendous massacres and to fratricidal hatred, as we saw in Biafra and more recently in Rwanda, not to mention the senseless and uncontrolled killings in Algeria.

Among the exceptions, there is President Nelson Mandela, in South Africa, who is about to leave politics. In Mali, there is Alpha Konaré, whose second mandate will end in the year 2002. Unlike some other African leaders, the President of Mali does not want to violate his country's constitution by clinging to power for a third or fourth mandate, or to become president for life. In this respect, it is extremely disappointing to see what is going on in other countries, where the constitutional rules change depending on who is in office.

Honourable senators, you might accuse me of caricaturing Africa. More important, so might the Africans, and they would do so with great bitterness. However, I do believe I have made a fair analysis of certain situations, based on credible documents and on personal meetings. However, I must say that this overall impression does not accurately reflect the situation in each

country. In some cases it is better, while in others it is worse. In others still, it is absolutely outrageous.

Africa is decidedly not an easy continent to understand. It is hard for us to grasp and to accept excessive exploitation, slavery, the presence of mercenary bandits who terrorize and mutilate populations and thumb their noses at the legitimate authorities. National economies are in total collapse in some countries, but are being artificially sustained by foreign interests, both private and governmental.

Freedom of the press, a subject dear to my heart, is non-existent, or flaunted in many jurisdictions. Armies victimize those who are weaker, when not slitting their throats outright, or allowing whole ethnic groups to die. Then there is the whole scandal of the child soldiers which the President of Mali, Alpha Konaré, described to us, and so on.

The danger we North Americans face is that we can get accustomed to a certain perception of Africa, and reach false conclusions. We can say what I have heard many times with my own ears:

That is the way it is, that is the way they are. There is nothing we can do about it, so why let it bother us?

Yet I wish to believe that another Africa is emerging.

For Africa has another face as well. There is much good will. The context is not always propitious for it to develop, but the seed that is sown has some chance of reaching maturity. There have even been some remarkable successes. The important thing is for Africa to develop at its own speed, and in its own way. It will not be able to do so with the aid it receives from the countries of Europe, America or the East at present; that aid is already far too little, often too late, or poorly targeted. The important thing is for Africa to some day be able to move along at its own speed. It is our duty to show confidence in Africa, but not at any price.

Africa is still seeking its own democratic formulas. They cannot be carbon copies of the English, French, American or Canadian parliamentary systems, nor can the latecomer ideologies, such as communism, which left almost as quickly as they came, be imposed on any of the African countries. What the Africans have done is to take from these what suited them, particularly on the economic level.

The United States of America, currently putting pressure on Africa, would do well to reflect on this. American-style democracy is not an absolute value that can be imposed on China or on Ghana. Parliamentary colonialism, as described by Sadikou Ayo Alao, the President of GERDDES-Afrique, the group studying and researching democracy and economic and social development in Africa, speaking at the conference on democratization in Africa, an initiative of the Association des parlementaires francophones held in Libreville, in Gabon, in the spring of 1998, said, and I quote:

...beyond the universal principles of democracy, there remains enough room to allow each constitutional and institutional model to bear the mark of the people it is intended for, given their history, culture and socio-economic realities. Therefore, there is no need to refer to a particular model in setting up democratic institutions and a constitution.

He added:

...the essence must be the permanence of research into our approach to democratic and economic development.

Because, for him, and I quote him again:

Only the dynamics of institutional and economic research can lead Africa to sustainable development.

It is not my intention today to comment on all the meetings in the various countries we visited in February during the state visit, like Senator Comeau, who was also part of the visit, although we would have a lot of interesting things to tell you. I will focus more on Canada's relations with Africa.

I was highly impressed by a working meeting on February 16 with the directors of the African Development Bank, the ADB, an institution vital to Africa, whose head office is in Abidjan, in the Ivory Coast. This institution had recently undergone a sweeping change. Canadians were directly involved in it, with positive results. In fact, I say this with a certain pride. We may be proud of the quality of the women and men we lend or who represent us in Africa. The work of our ambassadors and representatives abroad is an important factor in the good results and in the quality of our partnerships with government and businesses in Africa. They are models of integrity and indefatigable devotion.

The frankness with which Ms Marleau addressed directors of the African Development Bank has strengthened my conviction that Canada does not hand out aid to African countries with its eyes and ears shut.

Many Canadians have doubts about the effectiveness of our assistance to Africa; others, including a senator, Senator Wilson, who spoke here a few weeks ago about development assistance, say that we are not devoting a large enough portion of our national budgets to this assistance.

The Hon. the Speaker: I am sorry to interrupt you, but your 15 minutes are up. Is leave granted to allow Senator Corbin to continue his speech?

Hon. Senators: Agreed.

Senator Corbin: First of all, we must ensure that all our contributions, whatever their size, carry the requirement of transparency and that they in fact be used for the stated purposes.

This was the point Ms Marleau made, and I quote:

Corruption is a crucial topic; it must be addressed. We must talk together in the hope of stamping it out.

Could one hope for greater frankness in expressing Canadian concerns regarding the many forms of assistance our country provides for development in the world?

This is the rub. How are we to foil the regimes and administrators that are helping themselves to money that is not theirs and enjoying the benefits of shameless nepotism at the expense of the populations that foreign aid is supposed to be helping? Ms Marleau speaks not just for the Canadian government but for a large number of Canadians. Africa must learn to help itself, to stamp out corruption itself. As Ms Marleau said, and I quote:

Through its vision, the Bank will tell the rest of the world how it intends to go about building an Africa in its image, an Africa where trust will be the order of the day and where business will prosper in the greatest interest of all Africans, especially — I hope — those living in the greatest poverty.

In fact, five priorities have been identified in this fight against poverty: meet the most basic humanitarian needs; good governance; rural development; the environment; equality of the sexes, both in education and in political life.

The challenge of good governance primarily applies to African leaders and administrators themselves. Ms Marleau was very firm when she said:

It is well recognized that economic development must go hand in hand with the development of consciences.

She added:

Canada is pleased to see the progress made in Africa in that regard, and also regarding transparency, the holding of free elections, the involvement of civil society, standards of conduct and fair processes.

This is encouraging news. As for me, I will be even more categorical: if we want to achieve true transparency, we must, once and for all, give true freedom of expression to the media. Let us stop the arbitrary imprisonment, when it is not the outright killing of journalists, as was recently the case in Burkina Faso, which, incidentally, means "The land of honest men." This will be the true sign that there is indeed a democratic society that thrives, beyond free elections, open parliaments, political leaders who are respectful of the constitution, and a rock-solid justice system. There cannot be true democracy without true freedom of expression for all the components of a democracy, including the media.

Other countries have lost patience with many underdeveloped countries. Canada is not the only partner of Africa to set conditions for its assistance.

Last February, the Dutch minister responsible for the Development Agency within the Department of Foreign Affairs announced that the Netherlands would, in future, be concentrating its bilateral aid structure on a limited number of countries, and she described the considerations that had led to that policy, and the criteria used to select the target countries.

I will spare you a reading of the eight-page document in question, which the chargé d'affaires at the Netherlands embassy kindly provided to me, but I do strongly recommend that you read it. It will show how concerned both our countries are about transparency and accountability.

I will quote two or three brief excerpts, however, to support my speech on Canadian aid to Africa. They illustrate Dutch concerns about the reduction in their aid programs just about everywhere in the world. Here is the first quote:

[English]

• (1740)

There are two reasons for concentrating aid on fewer countries:

There is a growing international consensus on the conditions that aid must meet if it is to be effective. It is most effective in poor countries where the quality of governance and policy is good. It is essential now for the donor community to draw the appropriate conclusions from this consensus and to put them into practice.

The most logical course of action is to concentrate aid on the poorest countries, but quality of policy and governments must also weigh heavily in selecting the countries eligible for bilateral aid.

This entailed assessing the quality of government policy, especially social policy, macroeconomic policy and economic structure policy. On the case of social policy, specific attention was paid to the composition of government expenditure and the extent to which expenditure was geared to relieving poverty. The country's efforts regarding the environment and gender issues were also considered.

On the quality of governance, the Dutch minister said:

This is a wide-ranging field, and various yardsticks were used. Attention was paid in particular to the integrity of the government apparatus, prevention of corruption, transparency in the management of public funds, supervision of government expenditure, the extent of public participation, the separation of powers, legal certainty, democratisation and respect for human rights. The relative

level of spending on defence were also taken into account. These and other indicators were used to assess a country's performance in terms of good governance. The decisive factor is whether the government has — and shows — the political will to create the social frameworks necessary for development.

[Translation]

By being strong, I think Canada will succeed better than in the past. We have to admit that occasionally there will be risks and errors made along the way. However, we must not forget that withdrawal of any form of help from an African country will simply further aggravate the suffering of many people facing the most abject poverty and total abandonment. This is not what Canada wants.

On the other hand, in Africa, it must be recognized and understood that Canadian aid is linked to specific rules. Canada's desire is to reach this 40 per cent to 45 per cent of the population, mostly women, living in abject poverty.

Honourable senators, there is no magic formula, but there are requirements and examples. It is up to us to insist. The message of the Government of Canada expressed by Ms Marleau to the African Development Bank, in which we are a partner, was clear, succinct and unequivocal. It was a candour not often heard on African soil. I hope her remarks generate much comment in Africa.

I was saying at the start of my remarks that my talking to you about Africa today was inspired by the state visit of the Governor General, in which my wife and I had the honour to participate.

I would be remiss if I did not say, before closing, that His Excellency the Governor General generously took part in our parliamentary meetings, despite a heavy schedule. Furthermore, he insisted that all parliamentarians attend and take an active part in discussion with the highest officials in each country visited, with the king, presidents, prime ministers and members of cabinet. This was not only a great honour for us, but an immeasurable moment of personal enrichment in terms of political experience. I am running out of time, and I would risk trying your already generous patience by continuing my remarks today. It is my intention to come back one day to other aspects of this Africa, which is both welcoming and mysterious. I am sure that Senator Comeau will in turn give you his impressions of the trip.

Finally, honourable senators, I wish to say that we have the Speaker of the Senate, the Honourable Gildas L. Molgat, to thank for the fact that two Canadian senators were able to take part in this state visit with the Governor General of Canada. It was Senator Molgat who insisted that the Senate now be included in these state visits on an equal footing with the House of Commons. Thank you, Senator Molgat.

Hon. Gerald J. Comeau: Honourable senators, I move that debate be adjourned.

The Hon. the Speaker: It is moved by Senator Comeau, seconded by Senator DeWare, that this order stand until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable Senator Corbin, the Speaker is not supposed to speak, but I wish to thank you for your very kind words.

On motion of Senator Comeau, debate adjourned.

The Senate adjourned until Wednesday, June 2, 1999 at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

THE HONOURABLE GILDAS L. MOLGAT

THE LEADER OF THE GOVERNMENT

THE HONOURABLE B. ALASDAIR GRAHAM, P.C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STAUTON

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

RICHARD GREENE

LAW CLERK AND PARLIAMENTARY COUNSEL

MARK AUDCENT

USHER OF THE BLACK ROD

MARY McLAREN

THE MINISTRY
According to Precedence

(June 1, 1999)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. Lloyd Axworthy	Minister of Foreign Affairs
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of Fisheries and Oceans
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. Sergio Marchi	Minister for International Trade
The Hon. John Manley	Minister of Industry
The Hon. Diane Marleau	Minister for International Cooperation and Minister responsible for Francophonie
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Marcel Massé	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Christine Stewart	Minister of the Environment
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	Minister of Citizenship and Immigration
The Hon. Fred J. Mifflin	Minister of Veterans Affairs and Secretary of State (Atlantic Canada Opportunities Agency)
The Hon. Jane Stewart	Minister of Indian Affairs and Northern Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of Human Resources Development
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. B. Alasdair Graham	Leader of the Government in the Senate
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of National Revenue
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Raymond Chan	Secretary of State (Asia-Pacific)
The Hon. Martin Cauchon	Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Ronald J. Duhamel	Secretary of State (Science, Research and Development) (Western Economic Diversification)
The Hon. Andrew Mitchell	Secretary of State (Parks)
The Hon. Gilbert Normand	Secretary of State (Agriculture and Agri-Food) (Fisheries and Oceans)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(June 1, 1999)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg, Man.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver, B.C.
Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Paul Lucier	Yukon	Whitehorse, Yukon
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Philip Derek Lewis	St. John's	St. John's, Nfld.
Reginald James Balfour	Regina	Regina, Sask.
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ontario	Ottawa, Ont.
William McDonough Kelly	Port Severn	Mississauga, Ont.
Leo E. Kolber	Victoria	Westmount, Qué.
John B. Stewart	Antigonish-Guysborough	Bayfield, N.S.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto Centre	Toronto, Ont.
Charlie Watt	Inkerman	Kuujjuaq, Qué.
Daniel Phillip Hays	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montréal, Qué.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Jean-Maurice Simard	Edmundston	Edmundston, N.B.
Michel Cogger	Lauzon	Knowlton, Qué.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Golfe	Ste-Foy, Qué.
Gérald-A. Beaudoin	Rigaud	Hull, Qué.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	New Brunswick	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
Mabel Margaret DeWare	New Brunswick	Moncton, N.B.
John Lynch-Staunton	Grandville	Georgeville, Qué.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eytom	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
Normand Grimard	Québec	Noranda, Qué.

ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Thérèse Lavoie-Roux	Québec	Montréal, Qué.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis Johnson	Winnipeg-Interlake	Winnipeg, Man.
Eric Arthur Berntson	Saskatchewan	Saskatoon, Sask.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Québec, Qué.
Ronald D. Ghitter	Alberta	Calgary, Alta.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montréal, Qué.
Fernand Roberge	Saurel	Ville St-Laurent, Qué.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
Erminie Joy Cohen	New Brunswick	Saint John, N.B.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montréal, Qué.
Pierre Claude Nolin	De Salaberry	Québec, Qué.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Qué.
Sharon Carstairs	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	New Brunswick	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montréal, Qué.
William H. Rompkey, P.C.	Newfoundland	North West River, Labrador, Nfld.
Lorna Milne	Ontario	Brampton, Ont.
Marie-P. Poulin	Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougement	Ville de Saint-Laurent, Qué.
Nicholas William Taylor	Sturgeon	Bon Accord, Alta.
Eugene Francis Whelan, P.C.	Western Ontario	Ottawa, Ont.
Léonce Mercier	Mille Isles	Saint Élie d'Orford, Qué.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinegan	Montréal, Qué.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Qué.
Sister Mary Alice (Peggy) Butts	Nova Scotia	Sydney, N.S.
Serge Joyal, P.C.	Kennebec	Montréal, Qué.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Archibald (Archie) Hynd Johnstone	Prince Edward Island	Kensington, P.E.I.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Calvin Woodrow Ruck	Dartmouth	Dartmouth, N.S.
Richard H. Kroft	Winnipeg	Winnipeg, Man.
Marian Maloney	Surprise Lake-Thunder Bay	Etobicoke, Ont.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montréal, Qué.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Qué.
Vivienne Poy	Toronto	Toronto, Ont.

SENATORS OF CANADA

ALPHABETICAL LIST

(June 1, 1999)

Senator	Designation	Post Office Address
THE HONOURABLE		
Adams, Willie	Nunavut	Rankin Inlet, Nunavut
Andreychuk, A. Raynell	Regina	Regina, Sask.
Angus, W. David	Alma	Montréal, Qué.
Atkins, Norman K.	Markham	Toronto, Ont.
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.
Bacon, Lise	De la Durantaye	Laval, Qué.
Balfour, Reginald James	Regina	Regina, Sask.
Beaudoin, Gérald-A.	Rigaud	Hull, Qué.
Berntson, Eric Arthur	Saskatchewan	Saskatoon, Sask.
Bolduc, Roch	Golfe	Ste-Foy, Qué.
Bryden, John G.	New Brunswick	Bayfield, N.B.
Buchanan, John, P.C.	Nova Scotia	Halifax, N.S.
Butts, Sister Mary Alice (Peggy)	Nova Scotia	Sydney, N.S.
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.
Carstairs, Sharon	Manitoba	Victoria Beach, Man.
Chalifoux, Thelma J.	Alberta	Morinville, Alta.
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.
Cogger, Michel	Lauzon	Knowlton, Qué.
Cohen, Erminie Joy	New Brunswick	Saint John, N.B.
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.
Cook, Joan	Newfoundland	St. John's, Nfld.
Cools, Anne C.	Toronto Centre	Toronto, Ont.
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.
De Bané, Pierre, P.C.	De la Vallière	Montréal, Qué.
DeWare, Mabel Margaret	New Brunswick	Moncton, N.B.
Di Nino, Consiglio	Ontario	Downsview, Ont.
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.
Eyton, J. Trevor	Ontario	Caledon, Ont.
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Qué.
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.
Forrestall, J. Michael	Dartmouth and Eastern Shore	Dartmouth, N.S.
Fraser, Joan Thorne	De Lorimier	Montréal, Qué.
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.
Ghitter, Ronald D.	Alberta	Calgary, Alta.
Gill, Aurélien	Wellington	Mashtuiatsh, Pointe-Bleue, Qué.
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.
Grimard, Normand	Québec	Noranda, Qué.
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.
Hays, Daniel Phillip	Calgary	Calgary, Alta.
Hervieux-Payette, Céline, P.C.	Bedford	Montréal, Qué.
Johnson, Janis	Winnipeg-Interlake	Winnipeg, Man.
Johnstone, Archibald (Archie) Hynd	Prince Edward Island	Kensington, P.E.I.
Joyal, Serge, P.C.	Kennebec	Montréal, Qué.
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.
Kelly, William McDonough	Port Severn	Mississauga, Ont.
Kenny, Colin	Rideau	Ottawa, Ont.
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.

Senator	Designation	Post Office Address
THE HONOURABLE		
Kinsella, Noël A.	New Brunswick	Fredericton, N.B.
Kirby, Michael	South Shore	Halifax, N.S.
Kolber, Leo E.	Victoria	Westmount, Qué.
Kroft, Richard H.	Winnipeg	Winnipeg, Man.
Lavoie-Roux, Thérèse	Québec	Montréal, Qué.
Lawson, Edward M.	Vancouver	Vancouver, B.C.
LeBreton, Marjory	Ontario	Manotick, Ont.
Lewis, Philip Derek	St. John's	St. John's, Nfld.
Losier-Cool, Rose-Marie	New Brunswick	Bathurst, N.B.
Lucier, Paul	Yukon	Whitehorse, Yukon
Lynch-Staunton, John	Grandville	Georgeville, Qué.
Maheu, Shirley	Rougemont	Ville de Saint-Laurent, Qué.
Mahovlich, Francis William	Toronto	Toronto, Ont.
Maloney, Marian	Surprise Lake-Thunder Bay	Etobicoke, Ont.
Meighen, Michael Arthur	St. Marys	Toronto, Ont.
Mercier, Léonce	Mille Isles	Saint-Élie d'Orford, Qué.
Milne, Lorna	Ontario	Brampton, Ont.
Molgat, Gildas L. Speaker	Ste-Rose	Winnipeg, Man.
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.
Nolin, Pierre Claude	De Salaberry	Québec, Qué.
Oliver, Donald H.	Nova Scotia	Halifax, N.S.
Pearson, Landon	Ontario	Ottawa, Ontario
Pépin, Lucie	Shawinegan	Montréal, Qué.
Perrault, Raymond J., P.C.	North Shore-Burnaby	North Vancouver, B.C.
Pittfield, Peter Michael, P.C.	Ontario	Ottawa, Ont.
Poulin, Marie-P.	Northern Ontario	Ottawa, Ont.
Poy, Vivienne	Toronto	Toronto, Ont.
Prud'homme, Marcel, P.C.	La Salle	Montréal, Qué.
Rivest, Jean-Claude	Stadacona	Québec, Qué.
Roberge, Fernand	Saurel	Ville St-Laurent, Qué.
Robertson, Brenda Mary	Riverview	Shediac, N.B.
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Robichaud, Louis-J., P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Roche, Douglas James	Edmonton	Edmonton, Alta.
Rompkey, William H., P.C.	Newfoundland	North West River, Labrador
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.
Ruck, Calvin Woodrow	Dartmouth	Dartmouth, N.S.
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Simard, Jean-Maurice	Edmundston	Edmundston, N.B.
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.
Spivak, Mira	Manitoba	Winnipeg, Man.
Stewart, John B.	Antigonish-Guysborough	Bayfield, N.S.
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.
Stratton, Terrance R.	Red River	St. Norbert, Man.
Taylor, Nicholas William	Sturgeon	Bon Accord, Alta.
Tkachuk, David	Saskatchewan	Saskatoon, Sask.
Watt, Charlie	Inkerman	Kuujjuaq, Qué.
Whelan, Eugene Francis, P.C.	Western Ontario	Ottawa, Ont.
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.

SENATORS OF CANADA
BY PROVINCE AND TERRITORY

(June 1, 1999)

ONTARIO—24

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Lowell Murray, P.C.	Pakenham	Ottawa
2	Peter Alan Stollery	Bloor and Yonge	Toronto
3	Peter Michael Pitfield, P.C.	Ontario	Ottawa
4	William McDonough Kelly	Port Severn	Missassauga
5	Jerahmiel S. Grafstein	Metro Toronto	Toronto
6	Anne C. Cools	Toronto Centre	Toronto
7	Colin Kenny	Rideau	Ottawa
8	Norman K. Atkins	Markham	Toronto
9	Consiglio Di Nino	Ontario	Downsview
10	James Francis Kelleher P.C.	Ontario	Sault Ste. Marie
11	John Trevor Eytون	Ontario	Caledon
12	Wilbert Joseph Keon	Ottawa	Ottawa
13	Michael Arthur Meighen	St. Marys	Toronto
14	Marjory LeBreton	Ontario	Manotick
15	Landon Pearson	Ontario	Ottawa
16	Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
17	Lorna Milne	Ontario	Brampton
18	Marie-P. Poulin	Northern Ontario	Ottawa
19	Eugene Francis Whelan, P.C.	Western Ontario	Ottawa
20	The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
21	Francis William Mahovlich	Toronto	Toronto
22	Marian Maloney	Surprise-Lake-Thunder Bay ..	Etobicoke
23	Vivienne Poy	Toronto	Toronto
24	.....	.....	.....

SENATORS BY PROVINCE AND TERRITORY

QUÉBEC—24

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Leo E. Kolber	Victoria	Westmount
2	Charlie Watt	Inkerman	Kuujjuaq
3	Pierre De Bané, P.C.	De la Vallière	Montréal
4	Michel Cogger	Lauzon	Knowlton
5	Roch Bolduc	Golfe	Ste-Foy
6	Gérald-A. Beaudoin	Rigaud	Hull
7	John Lynch-Staunton	Grandville	Georgeville
8	Jean-Claude Rivest	Stadacona	Québec
9	Marcel Prud'homme, P.C.	La Salle	Montréal
10	Fernand Roberge	Saurel	Ville de Saint-Laurent
11	W. David Angus	Alma	Montréal
12	Pierre Claude Nolin	De Salaberry	Québec
13	Lise Bacon	De la Durantaye	Laval
14	Céline Hervieux-Payette, P.C.	Bedford	Montréal
15	Shirley Maheu	Rougemont	Ville de Saint-Laurent
16	Léonce Mercier	Mille Isles	Saint-Élie d'Orford
17	Lucie Pépin	Shawinigan	Montréal
18	Marisa Ferretti Barth	Repentigny	Pierrefonds
19	Serge Joyal, P.C.	Kennebec	Montréal
20	Joan Thorne Fraser	De Lorimier	Montréal, Qué.
21	Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Qué.
22	.....	.....	.....
23	.....	.....	.....
24	.....	.....	.....

SENATORS BY PROVINCE—MARITIME DIVISION

NOVA SCOTIA—10

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2	John B. Stewart	Antigonish-Guysborough	Bayfield
3	Michael Kirby	South Shore	Halifax
4	Gerald J. Comeau	Nova Scotia	Church Point
5	Donald H. Oliver	Nova Scotia	Halifax
6	John Buchanan, P.C.	Nova Scotia	Halifax
7	J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
8	Wilfred P. Moore	Stanhope St./Bluenose	Chester
9	Sister Mary Alice (Peggy) Butts	Nova Scotia	Sydney
10	Calvin Woodrow Ruck	Dartmouth	Dartmouth

NEW BRUNSWICK—10

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine
2	Eymard Georges Corbin	Grand-Sault	Grand-Sault
3	Brenda Mary Robertson	Riverview	Shediac
4	Jean-Maurice Simard	Edmundston	Edmundston
5	Noël A. Kinsella	New Brunswick	Fredericton
6	Mabel Margaret DeWare	New Brunswick	Moncton
7	Erminie Joy Cohen	New Brunswick	Saint John
8	John G. Bryden	New Brunswick	Bayfield
9	Rose-Marie Losier-Cool	New Brunswick	Bathurst
10	Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent

PRINCE EDWARD ISLAND—4

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Eileen Rossiter	Prince Edward Island	Charlottetown
2	Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3	Archibald (Archie) Hynd Johnstone	Prince Edward Island	Kensington
4	.....	.....	.....

SENATORS BY PROVINCE—WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg
2 Mira Spivak	Manitoba	Winnipeg
3 Janis Johnson	Winnipeg-Interlake	Winnipeg
4 Terrance R. Stratton	Red River	St. Norbert
5 Sharon Carstairs	Manitoba	Victoria Beach
6 Richard H. Kroft	Manitoba	Winnipeg

BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver
3 Jack Austin, P.C.	Vancouver South	Vancouver
4 Pat Carney, P.C.	British Columbia	Vancouver
5 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
6 Ross Fitzpatrick	Okanagan-Similkameen	Kamloops

SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 Reginald James Balfour	Regina	Regina
3 Eric Arthur Berntson	Saskatchewan	Saskatoon
4 A. Raynell Andreychuk	Regina	Regina
5 Leonard J. Gustafson	Saskatchewan	Macoun
6 David Tkachuk	Saskatchewan	Saskatoon

ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Ronald D. Ghitter	Alberta	Calgary
4 Nicholas William Taylor	Sturgeon	Bon Accord
5 Thelma J. Chalifoux	Alberta	Morinville
6 Douglas James Roche	Edmonton	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND—6

	Senator	Designation	Post Office Address
THE HONOURABLE			
1	Philip Derek Lewis	St. John's	St. John's
2	C. William Doody	Harbour Main-Bell Island	St. John's
3	Ethel Cochrane	Newfoundland	Port-au-Port
4	William H. Rompkey, P.C.	Newfoundland	North West River, Labrador
5	Joan Cook	Newfoundland	St. John's
6	.....	.....	.....

NORTHWEST TERRITORIES—1

	THE HONOURABLE
1	.....

NUNAVUT—1

	THE HONOURABLE
1	Willie Adams

YUKON TERRITORY—1

	THE HONOURABLE
1	Paul Lucier

DIVISIONAL SENATORS

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Normand Grimard	Québec	Noranda, Qué.
2 Thérèse Lavoie-Roux	Québec	Montréal, Qué.

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES
 (As of June 1, 1999)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair:	Honourable Senator Watt	Deputy Chair: Honourable Senator Johnson	
Honourable Senators:			
Adams,	Gill,	Johnson,	St. Germain,
Andreychuk,	Graham, (or Carstairs)	*Lynch-Staunton, (or Kinsella)	Tkachuk, Watt.
Austin,			
Chalifoux,		Pearson,	

Original Members as nominated by the Committee of Selection

Adams, Andreychuk, Austin, Beaujodoin, Doody, Forest, *Graham (or Carstairs), Johnson
 *Lynch-Staunton (or Kinsella, acting), Marchand, Pearson, Taylor, Twinn, Watt.

AGRICULTURE AND FORESTRY

Chair:	Honourable Senator Gustafson	Deputy Chair: Honourable Senator Whelan	
Honourable Senators:			
Chalifoux,	Gustafson,	Rivest,	Spivak,
Fairbairn,	Hays,	Robichaud, (Saint-Louis-de-Kent)	Stratton,
*Graham, (or Carstairs)	*Lynch-Staunton, (or Kinsella)	Rossiter,	Taylor, Whelan.
		Sparrow,	

Original Members as nominated by the Committee of Selection

Bryden, Callbeck, *Graham (or Carstairs), Gustafson, Hays, *Lynch-Staunton (or Kinsella, acting),
 Rivest, Robichaud (Saint-Louis-de-Kent), Rossiter, Sparrow, Spivak, Stratton, Taylor, Whelan.

SUBCOMMITTEE ON BOREAL FOREST
 (Agriculture and Forestry)

Chair:	Honourable Senator Taylor	Deputy Chair: Honourable Senator Spivak	
Honourable Senators:			
Chalifoux,	*Lynch-Staunton, (or Kinsella)	Robichaud, (Saint-Louis-de-Kent)	Stratton,
*Graham, (or Carstairs)		Spivak,	Taylor.

BANKING, TRADE AND COMMERCE

Chair:	Honourable Senator Kirby	Deputy Chair: Honourable Senator Tkachuk
Honourable Senators:		
Angus,	Hervieux-Payette,	Kolber,
Austin,	Kelleher,	Kroft,
Callbeck,	Kenny,	*Lynch-Staunton, (or Kinsella)
*Graham, (or Carstairs)	Kirby,	Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, Austin, Callbeck, *Graham (or Carstairs), Hervieux-Payette, Kelleher, Kirby, Kolber,
*Lynch-Staunton (or Kinsella, acting), Meighen, Oliver, Stanbury, Stewart, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair:	Honourable Senator Ghitter	Deputy Chair: Honourable Senator Taylor
Honourable Senators:		
Adams,	Ghitter,	Hays,
Buchanan,	Gustafson,	Johnstone,
Cochrane,	*Graham, (or Carstairs)	Kenny, Kroft,

Original Members as nominated by the Committee of Selection

Buchanan, Butts, Cochrane, Ghitter, *Graham (or Carstairs), Gustafson, Hays, Kirby,
*Lynch-Staunton (or Kinsella, acting), Spivak, Stanbury, Rompkey, Taylor, Watt.

FISHERIES

Chair:	Honourable Senator Comeau	Deputy Chairman: Honourable Senator Perrault
Honourable Senators:		
Adams,	*Graham, (or Carstairs)	Meighen,
Butts,	*Lynch-Staunton, (or Kinsella)	Perrault,
Comeau,		Robertson,
Cook,	Mahovlich,	Stewart.

Original Members as nominated by the Committee of Selection

Adams, Butts, Carney, Comeau, *Graham (or Carstairs), Jessiman, Losier-Cool,
*Lynch-Staunton (or Kinsella, acting), Meighen, Perrault, Petten,
Robichaud (Saint-Louis-de-Kent), Rossiter, Stewart.

FOREIGN AFFAIRS

Chair: Honourable Senator Stewart

Honourable Senators:

Andreychuk,	De Bané,
Bolduc,	Di Nino,
Corbin,	Forrestall,
	Grafstein,

Deputy Chair: Honourable Senator Andreychuk

*Graham, (or Carstairs)	Robertson,
Losier-Cool	Stewart,
*Lynch-Staunton, (or Kinsella)	Stollery, Whelan.

Original Members as nominated by the Committee of Selection

*Andreychuk, Bacon, Bolduc, Carney, Corbin, De Bané, Doody, Grafstein, *Graham (or Carstairs),
Lynch-Staunton (or Kinsella, acting), MacDonald, Stewart, Stollery, Whelan.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Rompkey

Honourable Senators:

Bryden,	*Graham, (or Carstairs)
De Bané,	Kinsella,
DeWare,	LeBreton,
Di Nino,	*Lynch-Staunton, (or Kinsella)
Forrestall,	

Deputy Chair: Honourable Senator Nolin

Maheu,	Robichaud, (Saint-Louis-de-Kent)
Milne,	Rompkey,
Nolin,	Stollery,
Poulin,	Taylor.

Original Members as nominated by the Committee of Selection

*Atkins, Callbeck, De Bané, DeWare, Di Nino, *Graham (or Carstairs), Kinsella,
LeBreton, *Lynch-Staunton (or Kinsella, acting), Maheu, Nolin, Poulin,
Robichaud (Saint-Louis-de-Kent), Rompkey, Stollery, Taylor, Wood.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Milne

Honourable Senators:

Andreychuk,	Eyton,
Beaudoin,	Fraser,
Bryden,	Grafstein,
Buchanan,	*Graham, (or Carstairs),

Acting Deputy Chair: Honourable Senator Nolin

*Lynch-Staunton, (or Kinsella)	Nolin,
Milne,	Pearson,
Moore,	Pépin.

Original Members as nominated by the Committee of Selection

*Beaudoin, Cogger, Doyle, Gigantès, *Graham (or Carstairs), Jessiman, Lewis, Losier-Cool,
Lynch-Staunton (or Kinsella, acting), Milne, Moore, Nolin, Pearson, Watt.

LIBRARY OF PARLIAMENT (Joint)**Joint Chair:** Honourable Senator Robichaud

Honourable Senators:

Bolduc,

Grimard,

Kroft,

Deputy Chairman:

Robichaud,

(L'Acadie-Acadia).

*Original Members agreed to by Motion of the Senate
 Bolduc, Corbin, DeWare, Doyle, Gigantes, Grafstein, Robichaud (L'Acadie-Acadia).*

NATIONAL FINANCE**Chair:** Honourable Senator Stratton

Honourable Senators:

Bolduc,

Ferretti Barth,

Cook,

Fraser,

Cools,

*Graham,

Eyton,

(or Carstairs)

Deputy Chair: Honourable Senator Cools

Johnstone,

Mahovlich,

Lavoie-Roux,

Moore,

*Lynch-Staunton,

St. Germain,

(or Kinsella)

Stratton.

Original Members as nominated by the Committee of Selection

*Bolduc, Cools, Eyton, Ferretti Barth, Forest, *Graham (or Carstairs), Lavoie-Roux,*

**Lynch-Staunton (or Kinsella, acting), Mercier, Moore, Poulin, St. Germain, Sparrow, Stratton.*

**SUBCOMMITTEE ON CANADA'S EMERGENCY AND DISASTER PREPAREDNESS
 (National Finance)****Chair:** Honourable Senator Stratton

Honourable Senators:

Cook,

Ferretti Barth,

**Cools,

Fraser,

Deputy Chair: Honourable Senator Fraser

*Graham,

*Lynch-Staunton,

(or Carstairs)

(or Kinsella)

Lavoie-Roux,

Stratton.

****(ex officio member as decided by the National Finance Committee on March 24, 1999)**

OFFICIAL LANGUAGES (Joint)**Joint Chair:** Honourable Senator Losier-Cool

Honourable Senators:

Beaudoin,

Fraser,

Gauthier,

Kinsella,

Deputy Chair:

Losier-Cool,

Rivest,

Robichaud,

(L'Acadie-Acadia).

*Original Members agreed to by Motion of the Senate
 Beaudoin, Gauthier, Kinsella, Losier-Cool, Pépin, Rivest, Robichaud (L'Acadie-Acadia)
 Robichaud (Saint-Louis-de-Kent), Simard.*

PRIVILEGES, STANDING RULES AND ORDERS**Chair:** Honourable Senator Maheu

Honourable Senators:

Andreychuk,

Atkins,

Bacon,

Beaudoin,

Cook,

Cools,

Grafstein,

*Graham,
(or Carstairs)

Joyal,

Deputy Chair: Honourable Senator Robertson

Kelly,

Kenny,

Kinsella,

*Lynch-Staunton,
(or Kinsella)

Maheu,

Rossiter,

Sparrow,

Stollery.

*Original Members as nominated by the Committee of Selection
 Bosa, Corbin, Doyle, Grafstein, *Graham (or Carstairs), Grimard, Kelly, Lewis,
 *Lynch-Staunton (or Kinsella, acting), Maheu, Marchand,
 Milne, Pearson, Petten, Robertson, Rossiter.*

SCRUTINY OF REGULATIONS (Joint)**Joint Chair:** Honourable Senator Hervieux-Payette

Honourable Senators:

Grimard,

Hervieux-Payette,

Deputy Chair:

Kelly,

Moore.

*Original Members as nominated by the Committee of Selection
 Cogger, Ferretti Barth, Grimard, Hervieux-Payette, Kelly, Lewis, Mercier, Moore.*

SELECTION**Chair: Honourable Senator**

Honourable Senators:

Atkins,	Grafstein,
DeWare,	*Graham, (or Carstairs)
Fairbairn,	Kinsella.

Deputy Chair:

Pépin,
Robichaud,
<i>(L'Acadie-Acadia).</i>

Original Members agreed to by Motion of the Senate

Atkins, Corbin, DeWare, Fairbairn, *Graham (or Carstairs), Hébert, Kinsella,
 *Lynch-Staunton (or Kinsella, acting) Lewis, Phillips, Stanbury.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY**Chair: Honourable Senator Murray**

Honourable Senators:

Balfour,	Gill,
Butts,	*Graham, (or Carstairs)
Cohen,	Johnstone,
Cools,	
Ferretti Barth,	

Deputy Chair: Honourable Senator Butts

Lavoie-Roux,	Maloney,
LeBreton,	Murray,
*Lynch-Staunton, (or Kinsella)	Ruck.

Original Members as nominated by the Committee of Selection

Bonnell, Bosa, Cohen, Cools, Forest, *Graham (or Carstairs), Haidasz, Lavoie-Roux, LeBreton,
 *Lynch-Staunton (or Kinsella, acting), Maheu, Murray, Pépin, Phillips.

**SUBCOMMITTEE ON VETERANS AFFAIRS
(Social Affairs, Science and Technology)****Chair: Honourable Senator Balfour**

Honourable Senators:

Balfour,	*Graham, (or Carstairs)
Cohen,	
Cools,	Johnstone.

Deputy Chairman: Honourable Senator Johnstone

*Lynch-Staunton, (or Kinsella)	Poy.
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TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Poulin

Honourable Senators:

Adams,	Fitzpatrick,
Buchanan,	Forrestall,
Fairbairn,	*Graham, (or Carstairs)

Deputy Chair: Honourable Senator Forrestall

Joyal,	Roberge,
*Lynch-Staunton, (or Kinsella)	Spivak,
Poulin,	Stewart.

Original Members as nominated by the Committee of Selection

Adams, Atkins, Bacon, Buchanan, De Bané, Forrestall, *Graham (or Carstairs), Johnson,
*Lynch-Staunton (or Kinsella, acting), Mercier, Perrault, Poulin, Roberge, Rompkey

SUBCOMMITTEE ON COMMUNICATIONS (Transport and Communications)

Chair: Honourable Senator Poulin

Honourable Senators:

Bacon,	Johnson,
*Graham, (or Carstairs)	*Lynch-Staunton, (or Kinsella)

Deputy Chair: Honourable Senator Spivak

Maheu,	Spivak.
Poulin,	

SUBCOMMITTEE ON TRANSPORTATION SAFETY (Special)

Chair: Honourable Senator Forrestall

Honourable Senators:

Adams,	*Graham, (or Carstairs)
Forrestall,	Johnstone,

Deputy Chair: Honourable Senator Adams

*Lynch-Staunton, (or Kinsella)	Perrault,
Maloney,	Roberge,
	Spivak.

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• VOLUME 137

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 2, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Wednesday, June 2, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE ARCHIBALD HYND JOHNSTONE

TRIBUTES ON RETIREMENT

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, when Senator Archibald Johnstone first came to the Senate of Canada a little over a year ago, he described himself as a quiet little guy from Kensington, Prince Edward Island. He also reputedly said that he came here thinking that the Senate was not too effective, and that it was an old people's home for retired politicians. He has pointed out recently that he would like to correct much, if not all, of that earlier impression.

I, too, would like to set the record straight. Senator Johnstone was a crew member with the RCAF heavy bombing squadron during World War II. He went overseas, came back, and became a flight lieutenant, all before the age of 21 — not bad for a quiet little guy from Kensington.

In his evolving career, he served as president of the Prince Edward Island Federation of Agriculture and director of the Island Tourism Association, among other things, as well as enjoying great success in business pursuits of his own over the years.

Archie met his old friend Orville Phillips in the Air Cadets. Orville Phillips, as many of our colleagues know, was another quiet little guy from the Island. Orville and Archie were chair and vice-chair respectively of the Senate Subcommittee on Veterans Affairs. They travelled from coast to coast, gathering evidence and information from our veterans, recording their concerns, their hopes and their fears in an exhausting series of investigations. The committee report, released in March of this year, made 68 recommendations for improved care of Canada's veterans.

The report was a monumental effort. It focused on key areas such as the inclusion of veterans' facilities under regional health boards, the necessity of guaranteeing the availability of priority beds for the 250,000 veterans of World War II and the Korean War, and public misconceptions regarding veterans' pensions, as well as the operations of the Veterans Review and Appeal Board.

In interviews about the subcommittee's recommendations, Senator Johnstone expressed particular concern about the quality

of life of our veterans. He emphasized that their happiness would be greatly increased if they were cared for in their own homes, a concern highlighted in a number of key recommendations throughout the report.

To return to my earlier pledge to set the record straight, even though his stay with us was brief, Senator Johnstone found that the Senate of Canada was no retirement home. He found that the Senate of Canada is a workhouse and a vigilant custodian of the rights and freedoms of all Canadians. He found a place where he could defend the interests of all those Canadians who fought for freedom and democracy, who fought for a country whose flag is loved and respected across the planet.

During World War II, over 1 million Canadians enlisted in the Armed Forces. Forty-six thousand gave their lives, 13,000 of those from the Royal Canadian Airforce. Prince Edward Island, so central to the founding of our federation, was renowned for having the highest per capita enlistment of any place in Canada, and also for having the highest casualty rate.

Senator Johnstone was part of the proud and distinguished service whose motto, "*Per ardua ad astra*," means "Through travail to the stars." It is that service, indeed the service of all those fine Canadians who fought at sea, on land, and in the air in Canada's wars, that Archie has worked so hard to preserve and honour.

While you were only with us a brief time, Senator Johnstone, you dedicated important days and months to giving our veterans a voice, a cause too many Canadians have forgotten. You have reminded us to keep the faith, as you have always done in a long lifetime of exemplary service to your province and to your country.

Senator Johnstone, you have brought the gallantry of the RCAF to this chamber and reminded us of the price so many paid for our freedom. For that, and for all your hard work and dedication, we are deeply grateful. We wish many years of health and happiness to you and your beautiful wife, Phelicia, in your retirement.

● (1340)

Hon. Norman K. Atkins: Honourable senators, it gives me great pleasure to rise today to pay tribute to my friend Archie Johnstone. I must admit that I have not known him for very long, but I do not believe you have to know Archie for a long period to get to know him, and to appreciate his wit, his intelligence and his sense of humour.

I have been fortunate in that, in the fall of 1998, I travelled with him to South Korea on a pilgrimage which marked the 45th anniversary of the ceasefire in Korea. Later this week, we will both travel to Normandy to take part in another pilgrimage, celebrating the 55th anniversary of the invasion of Normandy. I know we are both looking forward to spending this time with the war veterans whom we will be accompanying on this trip. We will be in the air, flying back from Europe on Archie's 75th birthday, his official retirement date from the Senate. Given Senator Johnstone's military career, his war service, his participation and work in the Subcommittee on Veterans Affairs, this is a very fitting way for Archie to end his far-too-short Senate career.

It was during our time in South Korea that I really got to know Senator Johnstone. He is a very generous, warm man who can, and will, drive you crazy with his vigour, energy and enthusiasm. While I am no expert on long-term relationships, I must admit that I am sure there will be a special place in heaven, not only for Archie but also for his wife, Phelicia, for having put up with him for nearly 50 years.

Senator Johnstone has been successful throughout his career. It should be noted that, at a recent reunion of the crew members of the RAF 76th squadron, Canadian World War II Halifax Bomber, of which Archie was a member, every one of his crew is still with us enjoying the freedom they fought for over half a century ago.

In the Senate, he has played a vital part in the Subcommittee on Veterans Affairs, working with the former chair, Senator Orville Phillips, contributing to its recent report entitled, "Raising the Bar: Creating a New Standard in Veterans Health Care," as well as its study of Bill C-61.

We must give credit where it is due — and, therefore, I give credit to the Prime Minister for appointing Archie to the Senate. It is just too bad he waited so long.

Archie, you retire from this place having made a positive impact in your short time here. We wish you and Phelicia all the best as you continue your lives together. May you continue to serve the country, your province and your community in the same spirit you served this place.

Hon. Senators: Hear, hear!

Hon. Catherine S. Callbeck: Honourable senators, I, too, should like to pay tribute to Senator Archie Johnstone. I have known the senator for several years but, over the past year and a quarter, we have had the opportunity to work together for the people of Prince Edward Island. I have greatly appreciated his dedication, his sensitivity and, of course, his sense of humour.

He has had a very long and successful career in several business undertakings on the Island, and I am sorry that we will not be able to continue to tap his knowledge in a formal way here in the Senate.

Archie Johnstone has done much for the province of Prince Edward Island. He has never avoided hard work, having sat on as many as three committees at one time. Nowhere has that been more illustrated than in his work on behalf of our veterans and the members of our Armed Forces. He has worked hard at what he felt was a personal mission. He is proud of the 68 recommendations made by the Subcommittee on Veterans Affairs on health care, 12 of which have already been adopted, and will serve as part of his personal legacy as he leaves this place.

Not long ago, he was quoted in the *Summerside Journal Pioneer* as indicating that he found us in the Senate to be the finest group of people he had ever worked with. I should like to end, honourable senators, by saying that he is one of the finest persons I have ever worked with, and he will be missed in this place.

I also want to take the opportunity to wish the senator and his wife, Phelicia, who is in the gallery today, many more good years of health and happiness.

Hon. Senators: Hear, hear!

Hon. Lowell Murray: Honourable senators, I know that my former seat-mate, Senator Orville Phillips, would want me to say a few words of tribute to our departing colleague, Senator Archie Johnstone, and I am glad to do so on my own behalf because Senator Johnstone was such a faithful and valued colleague on the Standing Senate Committee on Social Affairs, Science and Technology.

Senator Phillips and Senator Johnstone have known each other for going on 60 years. I will not, therefore, try to say what Senator Phillips would say if he were standing here today. I would not dare.

Besides, I have often wondered whether it is in the best of taste to discuss other people's personal finances the way that Prince Edward Islanders are so inclined to do. In my opinion, Senator Johnstone's reputedly sizeable fortune is nobody's business but his own, and I do not intend to comment on it. If he is as well fixed as Senator Phillips always said he was, I am sure he came by it honestly, and I say: Good for him.

• (1350)

Even if it is true, as Senator Phillips always said, that it would take a Herculean effort to get him to part with a dollar, I say that the taxpayers of Canada would have been well served over the years if there had been more Liberals of such frugal temperament holding public office.

I know that Senator Atkins referred to Senator Johnstone's generosity when the two of them were in South Korea. All that means is that Senator Atkins managed to "outfumble" him when the cheque was presented.

Senator Phillips would want us to note, as Senator Graham has done, Senator Johnstone's wartime service as a crew member with the Royal Air Force Heavy Bomber Squadron based in England. At the reunion to which Senator Atkins referred, which was held a couple of weeks ago at the National Aviation Museum in Ottawa, the newspapers reported that the crew — all seven of them — had last been together on May 7, 1945 to toast the ending of World War II and their countless successful missions over Germany.

Veterans in the country would also want to acknowledge his contribution to the Subcommittee on Veterans Affairs, which has been referred to by Senator Graham and Senator Atkins. I would add to that that Senator Johnstone was not only a member of that subcommittee but also of the standing committee. I want to thank him most sincerely for his participation in our work. Whether it was in examining legislation — and we have had a fair bit of it — or in the study on social cohesion, Senator Johnstone always came to the committee well prepared and well informed. His questions and comments have been always perceptive and constructive.

Senator Johnstone did not regard his appointment to the Senate as a 15-month sinecure leading up to his seventy-fifth birthday. He went to work here as if he had to account for every day on the job. I suspect he does have to account, and that his accountability is to his own very high standards of performance and service, honed over an adult lifetime that must have started rather suddenly and abruptly aboard that RAF bomber when he was barely out of his teens.

His 15-month sinecure in the Senate will not have added much to his fabled bank account. He has earned many times over his senatorial stipend. I trust he has invested it shrewdly. I hope it pays him a handsome return, for he has been an excellent colleague and we are, all of us, in his debt.

Hon. Senators: Hear, hear!

Hon. Lorna Milne: Honourable senators, I want to add a few words to the tributes paid to Senator Archibald Johnstone.

Archie, your time here has passed very quickly, but you have made it count. You have worked very hard on behalf of Canada's veterans. Your input into the Report on the State of Health Care for War Veterans and Servicemen and Women will be a lasting memorial to your year in this place. We all know and honour your commitment and devotion to the cause of your fellow veterans.

I want to say a word about the rest of your time here. Your good nature and your sense of humour have been unfailing. I was delighted to hear Senator Murray refer to you just now as a Liberal, for you have accepted my teasing about being at heart a "terrible Tory" with humour and patience, even if you did feel a little bemused by it. I know your lovely wife, Phelicia, was downright confused by that description.

Your pride in your Johnstone ancestry and your interest in great success in your search for your roots in Scotland have been a source of inspiration for me and for all genealogists.

Archie, you are the ultimate entrepreneur. Your pride in Woodleigh replicas, the collection of historic miniature buildings that was begun by your father, your interest in Rainbow Valley, your joy in working around the Kensington Towers and Water Gardens with your son is so evident, and your inventiveness is undiminished. I know there will be more development of tourist attractions in your future.

The wonderful hospitality that you and Phelicia showed me on my visit to your province will always remain a high point in my visit there. I will always remember driving up that red Prince Edward Island dirt road, through the new spring growth and the blossoms, where you walked daily on your way over the hill to your school, from Woodleigh.

Archie, I thank you for your friendship. It has meant a great deal to me and I will miss you, as will this red chamber. However, I know that the Island will be richer for your return. Long life and good health, Archie.

Hon. Senators: Hear, hear!

Hon. Consiglio Di Nino: Honourable senators, I would like to associate myself with the comments made about Senator Archie Johnstone by all colleagues. If I may, I should like to add a couple of words of my own.

Over the past 15 or so months, I have had a number of opportunities to chat with Archie about different issues. I, like Senator Murray, do not question his loyalty to the Liberal Party. He has made it very clear. However, the impression that I have been left with is that Senator Johnstone brought a certain freshness to this chamber that, I hope, will increase as time goes on. He is a fair-minded individual who has kept an open mind on issues. The way he has dealt with the issues in which I have been involved has always been much less partisan than is usually the case in this chamber. I think that is good for the Senate.

For that, for his friendship and for all the other good things he has done, I thank him. Good luck. May you enjoy a long life.

[*Translation*]

Hon. Marcel Prud'homme: Honourable senators, I wish to subscribe to everything that has already been said about the Honourable Archibald Johnstone.

[*English*]

I did not know Senator Johnstone before he came to the Senate. I do not know what happened but, very spontaneously, from the first day, I considered him a personal friend. That is probably because I was asked to sit as a non-member on the Subcommittee on Veterans Affairs where I saw him work so hard on behalf of veterans with the Honourable Senator Phillips, a good and long-time friend, as well as Senators Cools, Chalifoux and Forest.

I find it strange that Senator Johnstone's loyalty to the Liberal Party has been questioned today. What no honourable senator has seemed to realize thus far is that he is independent-minded. He would have fit so well with us here. However, I want to assure honourable senators that I am not speaking on behalf of independent senators. I tried that once, and I was told that I should not repeat the performance.

However, I can speak on behalf of my friend Senator Roche, who said that he would join with me in whatever good I had to say about Senator Johnstone. Senator Roche did not have the chance, as I did, to get to know Senator Johnstone personally.

I have enjoyed having known Senator Johnstone. He was so kind to me from the very first day we met in this place. I do not think one day went by when we did not salute each other, in my office, in the corridor, or in the presence of Senator Phillips.

I have met the honourable senator's family. I know he will have many, many years left to enjoy P.E.I.

As I have said to others, there is a very convenient office downstairs by the entrance, the door to which will always be Senator Johnstone's door. If he needs a key, I will give him one. That is the trust that I have developed in him.

I regret that time passed so rapidly. However, there is consolation in the fact that if it passed rapidly for you, it also passed rapidly for us — to the delight of some in the Senate.

Senator Johnstone, I wish you very good health so that you may enjoy the many good years to come. It was a great moment for me to have known you.

Honourable senators, listen to my words. I say something different about every person who retires. I do not have one speech prepared for any departure.

Senator Johnstone and I worked together in difficult circumstances. He produced a good report on behalf of our veterans. I know that veterans in this country will feel a little more lonely with the sudden departure, coincidentally, of two P.E.I. senators, namely, Senator Phillips and Senator Johnstone, who have done so much for them. In the old days, Senator Marshall was champion of the veterans. That is not a partisan statement, it is the truth; it is factual.

[*Translation*]

I wish you a warm farewell. Please come back often to see us.

[*English*]

Hon. Marian Maloney: Honourable senators, I have known Archie Johnstone a shorter time than anyone, yet I feel honoured to consider him my friend. Many wonderful things can be said about him, — that is, besides complimenting his intelligence and the charm that he brought to this chamber. None of you seem to have noticed that he was always well groomed and, in particular, cared about his hair. As his friend, I found it curious that he did

not ask me for the name of my hairdresser, a question he asked several people. I will be happy to give that name soon. On a more serious note, I consider him to be not only a colleague but also a friend.

Senator Johnstone, you have served Canada well, both as a veteran of World War II, in the Bomber Squadron, and most recently here in the Senate. Although these periods are very distinct in your life, it is the remarkable contribution you made to furthering the welfare and development of your province of P.E.I. and your country which will have a lasting legacy.

Every Canadian veteran will be eternally grateful to you for the contribution you have made to ensuring that the best health care is available to them.

As a colleague, what I will remember most is the honour it was to serve with such a gentleman. He helped me learn the ropes — maybe we learned them together. Everyone to whom I have spoken comments on his kind and gentle, yet firm, way.

We will never forget your mischievous sense of humour. It has been my pleasure to serve in the Senate with you and I look forward to your future contributions to Canada. I wish you and your family the best of everything.

Hon. J. Michael Forrestall: Honourable senators, I cannot let the opportunity to go by lest people believe that the only contribution Senator Johnstone has made since he was appointed to the Senate was work on behalf of our veterans in our Veterans Affairs Committee. That is not so. He did much more than that. He came to our Transportation Safety Committee, as we have heard today, with a background of action, involvement and awareness. He brought to the committee a natural desire to foster and develop in all Canadians involved in transportation, and those simply the beneficiaries of it, a culture of safety. For that, I and every member of the committee will be grateful to him.

I look forward to seeing the honourable senator later this afternoon when the committee meets at 5:30 p.m. I thank him for his splendid contribution and, as everyone has said, especially for his friendship.

[*Translation*]

Hon. Léonce Mercier: Honourable senators, today we are paying tribute to a man who has distinguished himself in a number of areas, a man who has served his country and his province with honour. The Honourable Archibald Johnstone has not been with us very long, but he succeeded nonetheless in making his mark and in developing friendships with some of his colleagues.

In everything he has done, Senator Johnstone has exhibited a spirit of cooperation, a great sense of responsibility, and intelligence, in both his community and professional involvement in Prince Edward Island and in his role as senator and vice-chair of the Subcommittee on Veterans Affairs. Senator Johnstone will be remembered here for his devotion, his social conscience and his hard work. He will be greatly missed.

[English]

Dear Archie, you left your mark on this place and we are all proud and honoured to have had you with us. We are truly sorry to see you go, but I am certain that, whatever you choose to do after leaving the Senate, you will continue to endear yourself and earn the respect of all those around you.

Hon. David Tkachuk: I noticed that all the honourable senators speaking in tribute to Senator Johnstone today were from Ontario, Quebec and Atlantic Canada. I do not know why I am standing up at this time, actually, because I barely know Senator Johnstone. Nevertheless, I will miss him a lot because he bears an uncanny resemblance to my father. When he first came here, I thought, "I cannot believe it. They would not have appointed two of us!" Not only that, but all his mannerisms are identical to those of my dad. For example, when he is thoughtful, he holds his finger right up by his nose, and he is always perfectly dapper, just like my dad. He is absolutely fastidious.

Honourable senators, I was not going to bring this up until I heard Senator Murray talk about Senator Johnstone's fabled bank account. I do not know whether my grandfather spent any time in the Maritimes.

All I can say is that I will miss you because you do remind me of my father. Best of luck and good health!

Hon. Nicholas W. Taylor: Honourable senators, I wish to pay tribute to Archie also. This corner has been heavily loaded with talent for some time and Archie is just one of the people who sits here. We will soon be losing Senator Maloney, too. We also had Senators Whelan and Mercier sitting here but the whip, in order to better balance the house, moved some of our talent to the centre of the chamber because it did not seem fair to have all the intelligence in one corner.

Archie, I will not compare you to my father. As a matter of fact, I think you look more like the younger brother of the fellow who just spoke.

Archie and I have had our run-ins back and forth across the aisle. He served in the air force whereas I served in the navy. All the air crew were issued silk underwear, but the navy got scratchy woollen stuff. Furthermore, when they got a change of underwear, it was clean. We had to change with the guy in the hammock next to us. I was always jealous about that.

To find out that Archie is a rich Maritimer adds to that feeling because we westerners like to think that all the rich Maritimers are the farmers who sold all their potatoes, moved west to go into the cattle industry, and are now making a fortune.

• (1410)

Archie, all the little arguments that we have had across the aisle fade to insignificance, because you got the better of me a couple of times by saying that I was the government's real

opposition. That used to shut me up for five minutes, and you know how difficult it is to do that!

Archie, you have indeed made quite an impression on the Senate. Thank you for blessing us with your presence. If there is an argument for advancing the retirement age to 80, you are it. We should be looking at that whole question. The day is fast approaching for me, too, but perhaps there are some people in Her Majesty's Loyal Opposition who think we have been here too long already.

Archie, I wish you all the best. I hope to drop in on you and see how the lobster feeds are. If you come west at Stampede time, we will do something special, but if you come at another time, we will put on our own stampede for you.

Hon. Senators: Hear, hear!

Hon. Joyce Fairbairn: Honourable senators, I, too, say a very reluctant farewell to a very new friend in Senator Archie Johnstone. In the brief time since I met him, I would say that his character, personality and humour certainly have the effect of bringing out the best in people.

I was fascinated, as were others, to hear Senator Tkachuk's remark on the very special attraction that Senator Johnstone held for him. Perhaps that explains why we have seen a kinder, gentler, more subdued Senator Tkachuk recently, compared to my recollections of him in past times. That, in itself, was an achievement.

It is true that Senator Archie has not been with us very long, but it is fair to say that work in the Senate is not measured by quantity of years but rather by quality of contribution. Senator Johnstone came here serious about doing a good job. He has seen value in this institution. He has made a contribution of great value to it.

Others have spoken of the many ways in which he has assisted during the past 15 months in the work of this place. I want to focus just for a minute on the contribution that he has made in the area of veterans affairs. We are living in a very unsettled time today and we cannot help but reflect on the contribution made by some of Canada's finest citizens in past years, in wartime. Our friend Senator Johnstone is one such citizen. We are talking about a section of our citizenry which needs a voice. It has prospered for many years by having voices on each side of this Senate chamber for the welfare and the benefit of the veterans in Canada and their families. In a small way, it is how we say thank you for the incredible service they gave to their country.

Senator Johnstone's has been one of those voices. He has taken that responsibility very seriously — indeed, so seriously that Senator Johnstone feels almost a sense of regret at leaving and having to relinquish the work that he has done in the Senate. In fact, he felt a real responsibility to try and recruit someone to take his place.

Senator Johnstone heard somewhere that I was an honorary colonel. He used very persuasive powers to ensure my presence at the last committee meeting where Senator Balfour was chosen as the chair of the Subcommittee on Veterans Affairs. He practically got a written commitment from me to say I would keep on going. I will certainly try to fulfil that commitment for Senator Johnstone.

We are honoured to have had you here, sir, even for this short period of time. You clearly are a man of conscience and, I must say, from my own association with you, you are a true gentleman. I have felt privileged to sit in this house with you.

I wish you and your wife, Phelicia, the very best of futures. The work you have done here never stops. I know that the veterans of Canada will always find a supportive voice in yours. Thank you very much.

The Hon. the Speaker: Honourable Senator Johnstone, is it your wish to speak to the Senate?

Hon. Archibald Hynd Johnstone: Honourable senators, I have wondered what you might say today. I did not expect such tributes. I have enjoyed your comments and I have enjoyed the exaggerations. My wife will be pleased to know that I will try to keep my statement as short and as brief as the time I have been here with you. However, there are a few things that I must say.

I have noticed, as I go to meetings lately, and as I look around, that I am the oldest person in the room. I look around this chamber today and find, again, that I am the oldest person here.

When I came here at first, I recognized only three faces. I knew Honourable Senator Callbeck, whose family is so well known and so well respected throughout Canada, especially so in the Atlantic region. I had the good fortune a few years ago to meet the Honourable Senator John Lynch-Staunton at an Air Canada/*Financial Post* conference. We sat side by side for a few days.

Senator Lynch-Staunton may not be well known in my small home town of Kensington but his mother certainly is. I understand she is now in her 93rd year, still going strong. She has made great friends in Kensington. She was often in our home and we were often invited to her cottage, and to the gatherings she held while visiting Prince Edward Island. She is most noted for the swimming pool which she had installed in the town of Kensington. You can tell her that it is much used and much appreciated. She has a great friend in Mayor Gerald McCarville, who has been going on for 20 or 25 years in that capacity.

• (1420)

The third person that I knew upon arrival was Senator Orville Phillips. I was very privileged to be asked to sit with him on the Subcommittee on Veterans Affairs. It was sometimes emotional but we were well rewarded for the work that we did. We visited hospitals housing some 70 per cent of the veterans who are in institutions across Canada today.

At first, they did not want to talk to us, but once they found out that we had been there too, they would start to talk. Then they would all want to talk. When we were leaving, they would come back and shake hands again. They never complained. Their daughters complained. Their wives complained that they were not being treated right and were short of this or that, but they themselves did not complain. All they said was, "Thanks for coming. We thought we were forgotten."

Then, as we would try to leave the hospital, three or four people would come out in their wheelchairs as fast as they could. They just wanted to thank us once more, just for coming. That was all the reward we needed.

I hope that we in the subcommittee may have done some good.

Thank you. It has been very enjoyable. I met a great many of you. I did not get to know all of you, but in 15 months you cannot hope to get to know everyone. Your remarks today are well appreciated, not only by me but by my family.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to some distinguished visitors in our gallery.

His Excellency Hugo Fernandez Faingold, the Vice-President of the Eastern Republic of Uruguay, is also the President of the Senate of Uruguay. His Excellency is accompanied by the Ambassador of Uruguay to Canada, His Excellency Gaston Lasarte Burghi, and the Canadian Ambassador to Uruguay, Mr. Brian Northgrave.

On behalf of all honourable senators, I wish you welcome here to the Senate of Canada. May you have an enjoyable stay in our country.

SENATORS' STATEMENTS

HEALTH

INTRODUCTION OF GENETICALLY MODIFIED ORGANISMS INTO THE FOOD CHAIN AND THE ENVIRONMENT

Hon. Eugene Whelan: Honourable senators, I rise to express my very deep concern over the proliferation of genetically modified organisms being introduced into our food production in Canada and in the world.

The ability to introduce genes from animals and bacteria into plants and vice versa is being developed by the multinational food giants at an alarming rate. The introduction of these new organisms into our food chain and our environment is taking place with little control by governments and with even less understanding by the government or the public of their long-term dangers.

It is of even greater concern that the public depends on Health Canada and Agriculture Canada to ensure the safety of our food supply and to ensure that no new food products will be licensed for use or sold in Canada until they are proven safe for human consumption. It would appear that when it comes to the genetically modified organisms or GMOs, this trust is badly misplaced.

On May 13, 1999, Mr. David Dodge, Deputy Minister of the Department of Health, testified before the Standing Senate Committee on Agriculture and Forestry that the department did not have the laboratories to enable them to conduct tests on the safety of GMO products such as rBST. They have had to rely on tests done by outside laboratories, usually laboratories that are owned or controlled by the producer of the drug or the hormone that they are trying to evaluate.

Of even greater concern was the admission by Mr. Dodge that the department did not have on staff scientists with the expertise necessary to review these tests to evaluate if they were sufficiently well done to meet the requirements of Canada's licensing guidelines. He did state that they hoped to acquire this expertise in the near future so they would not have to rely on outside scientists to evaluate outside studies.

I urge the government to put a moratorium on the licencing of any genetically modified product until we have in our departments the competence to evaluate their safety, both in the short term and the long term, to human health.

Even the approval of non-genetically modified products such as pesticides and other toxic chemicals is of concern. Mr. Brian Emmett, Canada's Environment Commissioner, has stated that the federal government has serious deficiencies in the scientific expertise needed to protect Canadians from the harmful effects of these products. We are now starting to feel the results of the decision to cut back the funding of government research and the dismantling of our network of research stations across Canada.

I most strongly urge the government to reverse this decision and immediately move to restore the funding necessary to restore these facilities to their former status when they were known worldwide for their abilities to develop new and better crops and improve the breeds of animals. We would also then have the scientists on staff to test these new products to assure the people of Canada that these new products are wholesome and safe.

POST-SECONDARY EDUCATION

UNDERFUNDING IN UNIVERSITIES

Hon. Lois M. Wilson: Honourable senators, last week I presided over the Annual Convocation of Lakehead University, Thunder Bay, Ontario, recognizing approximately 1,500 graduates. Among them was former mayor Saul Laskin, now 81, who earned his Bachelor of Arts through distance education over the past 15 years, quite an event in the Year of

Older Persons. An expert on media literacy, the honorary degree recipient spoke for ten minutes, made his point, and sat down to enthusiastic response.

Universities are under siege these days. A recently formed Ontario coalition made up of parties interested in university education is pressing to have provincial funding brought up to the national average, since provincial funding per student is lower in Ontario than in any other province in Canada. I noticed a subway ad in Toronto aimed at graduates saying, "Congratulations on your solid achievement and your outstanding debts."

The average student upon graduation has a debt of \$30,000, which is not helped much by the millennium fund since that fund merely grants money in place of funds already available through the Ontario Student Assistance Program.

Lakehead University covers an area as large as France through its distance education program. It services a growing aboriginal community of students. It boasts a forestry program unique in Canada. It offers university education in a northern, relatively isolated part of the country to many who would otherwise find it impossible to avail themselves of higher education.

I urge senators to take note of the splendid work being done by the Canadian universities in their region and to take note of whether they are underfunded. Hopefully the resources necessary to sustain a community of scholars that will flourish and contribute richly to our common life will be made available through all possible means.

[Translation]

NATIONAL ACCESS AWARENESS WEEK

Hon. Thérèse Lavoie-Roux: Honourable senators, I should like to say a few words on the occasion of National Access Awareness Week.

[English]

Over 4 million Canadians have some degree of disability. Over 13 per cent of the population has disabilities, ranging from physical limitations to less obvious disabilities such as mental health, hearing, or learning ability. Each day, thousands of people struggle to cope with their disability while trying to get an education, secure or maintain a job, or perhaps even have a family.

This week is traditionally National Access Awareness Week, a time during which awareness campaigns are carried out from coast to coast in an effort to challenge the attitude of Canadians towards disability. The purpose of the week is ultimately to break down the barriers facing people with disabilities in order that every individual can participate in all aspects of life in Canada. Full participation and equal access can only be achieved by promoting understanding and carrying out concrete action.

For instance, in New Brunswick, a poster contest is being sponsored. The posters entered will convey ideas on prevention of disability or help in the promotion of persons with disabilities. Provincial awards will be given to people or groups who have done something significant to benefit persons with disabilities.

• (1430)

You may recall the Peggy Allen Award, in honour of the woman who fought for and created the local public transportation system for persons with disabilities. Recipients of the award are recognized for their efforts toward enhancing the issue of disability in the community.

National Access Awareness Week is a time to celebrate accomplishments, generate public awareness and engage in action which would lead to positive change in the lives of persons with disabilities. In previous years, the federal government sponsored the coalition comprised of government, business and national organizations of persons with disabilities. The coalition organized the national awareness campaign and provided leadership to communities throughout Canada to carry out local activities. This year, however, funding cut-backs have resulted in the dissolution of the federal role in the promotion of National Access Awareness Week. In effect, the week no longer exists. Some communities and organizations, however, are choosing to recognize the week in their own way, such as initiatives which I previously mentioned.

[Translation]

Parliament is continually advocating the accessibility of the rights of Canadian with disabilities, while the federal government unfortunately chooses not to support the week that draws attention to the very issue we are defending. Is our role not to ensure that Canada is a society defending and protecting needs of all its people, regardless of the level of their disability?

In 1996, the Federal Taskforce on Disability Issues released a report entitled "Equal Citizenship for Canadians with Disabilities: The Will to Act." This report contained 52 recommendations arising from consultations carried out across the country. How is it that only a handful of these 52 recommendations have been acted on? I put the question: Does the government have a real will to act?

I will close with a few quotes from the report from one of these consultations:

For our leadership and our actions to be positive, governments and the parties must clearly and with conviction say that people with disabilities are as important as other people and are entitled to the support they need to enjoy the same type of life as all other Canadians.

People with disabilities are found in all levels of society. They are young. They are Native. They are our seniors' population. They are all of us.

Our greatest asset is not our mines, our forests or our fish, it is the people of our country...

The Hon. the Speaker: Senator Lavoie-Roux, I regret to have to interrupt you, but your three minutes are up. Does Senator Lavoie-Roux have permission to continue?

Hon. Senators: Agreed.

Senator Lavoie-Roux:

...it matters little whether they can see, hear or walk. It makes no difference, this is still our greatest asset.

Many studies are being done. Will they all end up dying on the shelves? Perhaps it is time to establish a special committee to ensure the follow-up of the various studies, which cost so much money and effort and which often produce very worthwhile recommendations.

What do we do with them? This is not intended for just one government or one particular party, but for all of us. It is perhaps time, as new committees are established, to see what has been done with the recommendations made by earlier task forces.

ROUTINE PROCEEDINGS

PRIVILEGES, STANDING RULES AND ORDERS

ELEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Shirley Maheu, Chair of the Standing Senate Committee on Privileges, Standing Rules and Orders, presented the following report:

Wednesday, June 2, 1999

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

ELEVENTH REPORT

Pursuant to Rule 86(1)(f)(i), your committee has examined the issue of the restructuring of Senate committees, and now makes the following recommendations.

Number of Standing Committees

1. our committee recommends that the *Rules of the Senate* be amended by adding after Rule 86(1)(q), the following new Rules 86(1)(r) and (s):

"(r) The Senate Committee on Defence and Security, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to defence and security generally, including veterans affairs.

(s) The Senate Committee on Human Rights, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to human rights generally."

Your committee also recommends that these rules be provisional, that they come into force immediately, and that they cease to have effect at 6 p.m., October 10, 2000.

Size of Committees

2. Your committee recommends that the *Rules of the Senate* be amended as follows:

a. By adding a new Rule 85(2.1):

"(2.1) Subject to subsection (2.2)(a) below, the Committee of Selection may nominate as many as twelve Senators or as few as six Senators to serve on standing committees, provided that such a decision is unanimously agreed to by the Committee."

b. By deleting Rules 86(1)(f) to (q) and replacing them with the following:

"(f) The Committee on Privileges, Standing Rules and Orders:

(i) on its own initiative to propose, from time to time, amendments to the rules for consideration by the Senate;

(ii) upon a reference from the Senate, to examine and, if required, report on any question of privilege; and

(iii) to consider the orders and customs of the Senate and privileges of Parliament.

(g) The Committee on Internal Economy, Budgets and Administration, which is authorized on its own initiative to consider all matters of a financial or administrative nature relating to the internal management of the Senate.

(h) The Senate Committee on Foreign Affairs, to which shall be referred, if there is a motion to that effect, bills, messages, petitions, inquiries, papers and other matters relating to foreign and commonwealth relations generally, including:

(i) treaties and international agreements;

(ii) external trade;

(iii) foreign aid; and

(iv) territorial and offshore matters.

(i) The Senate Committee on National Finance, to which shall be referred, if there is a motion to that

effect, bills, messages, petitions, inquiries, papers and other matters relating to federal estimates generally, including:

(i) national accounts and the report of the Auditor General; and

(ii) government finance.

(j) The Senate Committee on Transport and Communications, to which shall be referred, if there is a motion to that effect, bills, messages, petitions, inquiries, papers and other matters relating to transport and communications generally, including:

(i) transport and communications by land, air, water, and space, whether by radio, telephone, telegraph, wire, cable, microwave, wireless, television, satellite, broadcasting, postal communications or any other form, method or means of communications or transport;

(ii) tourist traffic;

(iii) common carriers; and

(iv) navigation, shipping and navigable waters.

(k) The Senate Committee on Legal and Constitutional Affairs, to which shall be referred, if there is a motion to that effect, bills, messages, petitions, inquiries, papers and other matters relating to legal and constitutional matters generally, including:

(i) federal-provincial relations;

(ii) administration of justice, law reform and all matters related thereto, with the exception of issues relating to national security;

(iii) the judiciary;

(iv) all essentially juridical matters; and

(v) private bills not otherwise specifically assigned to another committee, including those related to marriage and divorce.

(l) The Senate Committee on Banking, Trade and Commerce, to which shall be referred, if there is a motion to that effect, bills, messages, petitions, inquiries, papers and other matters relating to banking, trade and commerce generally, including:

(i) banking, insurance, trust and loan companies, credit societies, *caisses populaires* and small loans companies;

(ii) customs and excise;

(iii) taxation legislation;

- (iv) patents and royalties;
- (v) corporate affairs; and
- (vi) bankruptcy.

(m) The Senate Committee on Social Affairs, Science and Technology, to which shall be referred, if there is an order of the Senate to that effect, bills, messages, petitions, inquiries, papers and other matters relating to social affairs, science, and technology generally, including:

- (i) cultural affairs and the arts;
- (ii) social and labour matters;
- (iii) health and welfare;
- (iv) pensions;
- (v) housing;
- (vi) fitness and amateur sports;
- (vii) employment and immigration;
- (viii) consumer affairs; and
- (ix) youth affairs.

(n) The Senate Committee on Agriculture and Forestry, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to agriculture and forestry generally, and the Canadian Wheat Board.

(o) The Senate Committee on Fisheries, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to fisheries generally.

(p) The Senate Committee on Energy, the Environment and Natural Resources, to which shall be referred, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to energy, the environment and natural resources generally, including:

- (i) mines and natural resources, other than fisheries and forestry;
- (ii) pipelines, transmission lines and energy transportation;
- (iii) environmental affairs; and
- (iv) other energy-related matters.

(q) The Senate Committee on Aboriginal Peoples, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to the Aboriginal Peoples of Canada."

c. By amending Rule 89 as follows:

"89. (1) A third of the members of a select committee shall constitute a quorum provided that the quorum shall not be less than three members. In the case of a joint committee, the number of members constituting a quorum shall be such as the Senate acting in consultation with the House of Commons may determine.

(2) A quorum is required whenever a vote, resolution or other decision is taken by a select committee, but any such committee, by resolution thereof, may authorize the chairman to hold meetings to receive and authorize the printing of evidence when a quorum is not present."

Additional Members on Committees

3. Your committee recommends that the *Rules of the Senate* be amended as follows:

By adding a new Rule 85 (2.2)(a):

"(2.2)(a) The Committee of Selection may make a recommendation to the Senate that two additional members be added to any standing committee provided that the vote of the Committee of Selection on the addition is unanimous."

By adding a new Rule 85 (2.2)(b):

"(2.2)(b) Senators may apply to sit on a standing committee either by application to their respective whip or directly to the Committee of Selection."

Respectfully submitted,

SHIRLEY MAHEU
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Maheu, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1998

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-32, respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Friday next, June 4, 1999.

[Translation]

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

MEETING HELD IN PARIS AND THE AQUITAINE REGION, FRANCE—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Gérald-A. Beaudoin: Honourable senators, I have the honour to table the report by the Canadian group of the Canada-France Inter-Parliamentary Association, which attended the meeting of the Association's Standing Committee in Paris and in the Aquitaine region, from February 21 to 27, 1999.

REVIEW OF ANTI-DRUG POLICY

NOTICE OF MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE

Hon. Pierre Claude Nolin: Honourable senators, I give notice that on June 10, 1999, I will move:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specific needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs is more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for the adoption of an anti-drug strategy developed by and for Canadians under which all levels of government will work closely together to reduce the harm associated with the use of illegal drugs.

That, without being limited in its mandate by the following, the committee be authorized to:

- review the federal government's policy to reduce the use of illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
- develop a national harm reduction policy in order to lessen the negative impact of illegal drug use in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;
- study harm reduction models adopted by other countries (treatment programs and parallel programs

aimed at illegal drug users) and determine if there is a need to implement them wholly or partially in Canada;

- examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights in order to determine whether these conventions authorize it to take action other than laying criminal charges;
- explore the effects of cannabis on health and examine the issue of whether decriminalizing cannabis would lead to increased use and abuse in the short and long term;
- examine the possibility of the government using its regulatory power under the Contraventions Act as an additional means of implementing a harm reduction policy, as is commonly done in certain European countries;
- examine any other issue respecting Canada's anti-drug policy that the Committee considers appropriate to the completion of its mandate.

That the special committee be composed of eight senators and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence from day to day as may be ordered by the Committee;

That the briefs received and testimony heard during consideration of Bill C-8, respecting the control of certain drugs, their precursors and other substances, by the Standing Senate Committee on Legal and Constitutional Affairs during the second session of the thirty-fifth Parliament be referred to the committee;

That the committee have the power to engage the services of such counsel (researchers, lawyers, medical specialists, addiction workers, and so on) and technical, information technology, clerical and other personnel as may be necessary for the purposes of its examination;

That the committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee be empowered to adjourn from place to place within and outside Canada;

That the committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95(2) of Senate rules:

That the committee submit its final report not later than two years from the date of it being constituted; and:

That the committee be empowered to continue to exist after the date on which it is to conclude its work in order to inform members of the Senate and the House of Commons, the Canadian public and any other person or association interested in its work, to disseminate the committee's conclusions and recommendations by means of press releases, press conferences, information sessions or any other activity members of the committee deem appropriate at a particular time.

[English]

QUESTION PERIOD

BUSINESS OF THE SENATE

Hon. Lowell Murray: Honourable senators, my question is to the Leader of the Government in the Senate, or to the Deputy Leader of the Government, as it concerns the business of this chamber this afternoon.

The house met today at 1:30 p.m. pursuant to a motion passed yesterday. The house is aware that the reason it meets at 1:30 on Wednesdays is to accommodate the work of committees, it being understood that the chamber adjourns at approximately 3:15 on Wednesdays. I am aware that a number of committees are scheduled to meet this afternoon. In the case of the committee that I chair, we have two meetings scheduled, one which was to have begun at 3:30 concerning the drafting of a report, and the second to have begun at 5:30, in the course of which we were to hear, an hour apart, a series of witnesses on Bill C-66. The last of the witnesses was to have been heard at 9:30 tonight. There is, therefore, not much flexibility in the schedule. I should like some reassurance from the leadership that committees will be able to meet by 3:30 p.m. this afternoon.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, at a meeting held earlier with Senator Kinsella, I indicated that this Wednesday's Senate sitting would be somewhat longer than a normal Wednesday sitting because we had to deal with a number of second reading speeches. It is now 2:45 p.m. We have only just commenced Question Period, and we have not yet started with government business. I think it is fair to say that we will not complete government business this afternoon until probably 4:30 p.m. I am reluctant, quite frankly, to allow committees to sit, since critical second reading speeches will be made at that time.

Hon. Gerald J. Comeau: Honourable senators, historically and traditionally we have had Wednesday afternoons to arrange meetings of this kind. I might remind the deputy leader that we do try to organize our committee meetings for specific times, and it is quite a bit of work.

The Standing Senate Committee on Fisheries has made arrangements to hear from the Minister of Fisheries this afternoon — a very busy man. He has graciously accepted an invitation to come before the committee on an extremely important subject.

What I have just heard leads me to believe that I must get up, go to my office, call the minister and cancel the meeting scheduled for 3:45 p.m. this afternoon. Given this lack of scheduling, I will be reluctant in the future to ask the Minister of Fisheries to appear before us. Perhaps we could do the second reading speeches at another time, given that Wednesdays are viewed as the day when we aim to provide our witnesses with a straight answer that they will indeed be heard. I ask the Deputy Leader of the Government to reconsider.

Senator Carstairs: Honourable senators, that was exactly the reason I explained the situation to the Deputy Leader of the Opposition. All chairs on this side were informed that this would probably be a late day. I am sorry that the Honourable Senator Comeau was not informed that this would be the situation. If my honourable friend wishes to make a motion that his committee sit, we will see if there is agreement for his committee to sit. However, the Senate will not rise at 3:15 p.m. to allow senators to go to committee.

Senator Murray: I appreciate the deputy leader's reluctance to grant leave for committees to sit, but she will appreciate my desire to test that reluctance in a little while by asking leave to revert to Notices of Motion.

Hon. Terry Stratton: I, too, have a supplementary question regarding this matter. The Standing Senate Committee on National Finance will hear from a witness on the Main Estimates at 5:30 p.m. today. At 7:00 p.m., we will hear from witnesses regarding Bill C-71. On our side, we are asked to be responsible and respond. We are attempting to do that, and we have a great deal of trouble, being unable to plan.

Although my committee does not meet until 5:30 p.m., I have prepared a motion such that we can meet at 5:30 p.m., even though the Senate may then be sitting, simply because of the workload before us this evening. Is the deputy leader telling me that I will be able to present this motion?

Senator Carstairs: I do not think the Senate will be sitting at 5:30, but my honourable colleague is free to make his motion if he so wishes. I will not try to block a return to Notices of Motion. I am simply explaining the importance of the second reading speeches coming down this afternoon.

Honourable senators, perhaps we could skip Question Period and go immediately into those speeches. We might even be out of here much sooner than anticipated.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I agree with my honourable colleague, and I support her suggestion. Once we finish with this question, perhaps honourable senators would agree not to rise on other questions.

The Hon. the Speaker: Is there agreement to move immediately to Delayed Answers, honourable senators?

Hon. John Lynch-Staunton (Leader of the Opposition): On the understanding that committees will be able to sit at the hours they are scheduled to sit.

As the Speaker will remember, the arrangement for the Senate to sit at 1:30 p.m. on Wednesdays was to be compensated by also sitting on Monday evenings — which we did this week. That was to allow committees to sit on Wednesday afternoons. Now we are being told that that convention or understanding is no longer valid. We are saying we can review it.

• (1450)

We will forego Question Period on the understanding that we adjourn no later than 3:30 to allow the committees — all eight or nine of them — scheduled to sit this afternoon to sit at the hours they are scheduled.

Senator Carstairs: With the greatest of respect, honourable senators, I cannot agree to adjourn the house at 3:30. I can agree, if we proceed immediately to Orders of the Day, to allow senators to go to committee at 3:30 and to accept the corresponding motions. However, I cannot allow the house to adjourn at 3:30, simply because there are too many second reading speeches that must be heard.

Senator Murray: I will then ask leave of the Senate to revert to Notices of Motions.

The Hon. the Speaker: Honourable Senator Murray, I think we had better finish Question Period before we proceed to the next item.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Lowell Murray: Honourable senators, with leave the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 3:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I was one of the proponents of the

arrangement that we sit at 1:30 on Wednesdays to allow committees to sit at 3:00, 3:30, and 4:00, on the understanding that the hours lost by the chamber would be made up on Monday evenings. That system worked for a long time. Now we are faced with committees scheduled for 3:00, 3:30 and 4:00 and with the full chamber sitting until 5:00 or 6:00 p.m. That is particularly unfair to the opposition side, which has fewer members who, as a result, are being asked to do double duty, to sit on their committees and to be in attendance here.

I will not initiate a debate on our arrangement as such. I have no objection to committees being given the power to sit this afternoon at the time they wish to sit. However, I suggest that, for the next two weeks or for as long as we are here, committees schedule their meetings with the knowledge that each Wednesday the chamber will sit for the full day and not a short day.

Senator Murray: Honourable senators, there is an even more radical solution possible. It is called the five-day work week that the rest of the world observes. Frankly, I think it is ridiculous at times like this — June and December, in particular — when we are faced with a great deal of legislation, to try to cram it all in to two and a half days.

Some Hon. Senators: Hear, hear!

Hon. J. Michael Forrestall: Honourable senators, I point out to the Deputy Leader of the Government that if she were to try to make hotel reservations for next Monday night in this city, she would see how difficult it is.

Hon. Douglas Roche: Honourable senators, I just want to mention to the Honourable Senator Murray that not all senators live in Ottawa and that it is often not easy to get here.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Terry Stratton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on National Finance have power to sit at 5:30 in the afternoon today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

FISHERIES

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Gerald J. Comeau: Honourable senators, I do not have this in writing but I would ask leave to proceed in any event.

With leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Fisheries be allowed to sit at 3:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is leave granted to permit the Honourable Senator Comeau to present his motion verbally?

Hon. Senators: Agreed.

Motion agreed to.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to introduce to you some guests in our gallery. They are a group of parliamentary interns from Western Kentucky University. There are 13 interns participating in a five-week internship program with the Canadian Parliament.

This year, for the first time, we have two interns placed with senators. Kelly Rich is with Senator Losier-Cool and Rebecca Ellmore is with Senator Comeau.

We welcome you to the Senate and we hope that your experience here in the Canadian Parliament will be both enjoyable and instructive.

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

CRIMINAL RECORDS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Joan Fraser moved the second reading of Bill C-69, to amend the Criminal Records Act and to amend another Act in consequence.

She said: Honourable senators, in my view, this bill to amend the Criminal Records Act is important. It deals with improving the safety of our children and other vulnerable people. Both chambers of Parliament, I am sure we can all agree, share this objective. Indeed, in the other place, members of all parties cooperated to ensure that we would receive this bill in a timely fashion.

Allow me to give honourable senators a bit of background. The Criminal Records Act establishes the system to offer pardons to former offenders who have demonstrated a return to a law-abiding life. Under that act, offenders can have their records sealed by obtaining a pardon from the National Parole Board. This does not expunge the conviction, nor does it erase the record. The conviction is a matter of historical fact. The criminal record can be unsealed on the authority of the Solicitor General if that is required in the interests of the administration of justice or national security.

[*Translation*]

• (1500)

Pardons are granted only when it has been demonstrated that crime-free conduct has been resumed. In the case of summary conviction offences, this requires a three-year crime-free period after completion of any and all sentences.

In the case of more serious indictable offences, the waiting period is five years. The Parole Board must confirm that the applicant has exhibited good conduct during that time. Before a pardon is received, police are consulted in every community where pardon applicants have lived during the past five years.

[*English*]

It is important to be aware that the vast majority of pardon recipients remain law abiding. During the past 28 years, nearly a quarter of a million pardons have been granted, and of these just over 6,000 have been revoked for a new offence. This is a success rate of more than 97 per cent.

Bill C-69 deals primarily with sex offenders who are a small segment of the larger pardoned group. The Department of the Solicitor General has recently estimated that during the past 28 years, some 4,200 sex offenders have received pardons. Only 114, or 2.6 per cent, have had their pardon revoked for the commission of another sex offence. This shows that, fortunately, only a small number of pardoned sex offenders continue to pose a risk to society. No matter how small the number, it is important, of course, to reduce that risk to the lowest level possible. That is what Bill C-69 will help us to do.

[Translation]

This bill is rendering official steps that have already been taken. In 1993, extensive consultations were conducted in every region of this country with child-caring organizations of many descriptions: school and child welfare officials, organizations such as Big Brothers and Big Sisters, and Volunteer Canada. The police were also included in all of these consultations as were the organizations to help victims.

[English]

It was clear in those consultations that a check of criminal records constitutes only one part of a comprehensive screening process, but an important — indeed, an essential — part.

Based on the consensus that emerged from those consultations, the national screening system, which provides access to criminal records of people who are applying for positions of trust, was launched in 1994. That system is a collaborative effort involving child caring agencies, the police community, the Canadian Police Information Centre, or CPIC, and the Departments of the Solicitor General, Health and Justice. The national screening system has been working well. Its use by the voluntary sector and other bona fide organizations is constantly expanding. More than 700,000 searches have been conducted to date.

Bill C-69 further refines the national screening system by correcting a potential weakness, the fact that the record of a pardoned sex offender could be overlooked during a routine screening check of the CPIC system. As matters stand today, the Solicitor General has the authority to unseal and disclose a pardoned record for purposes consistent with the administration of justice, including screening. However, he cannot use that authority if such records are not requested, and they cannot be requested if their existence is unknown.

Because such records are removed from the CPIC system when someone is pardoned and are kept separately in a sealed database, they do not show up when a routine query of CPIC is made. Obviously, that is exactly what is intended by the Criminal Records Act. For most purposes, these records should be invisible. However, when a person is applying for a position of trust, and that person's record suggests that there would be an increased level of risk to a specific, vulnerable category of persons, an exception is warranted.

There was unanimous agreement on this point among federal, provincial and territorial ministers of justice and solicitors general when they met in October of 1998.

[Translation]

A working group of senior officials examining ways to better protect children submitted 10 recommendations to the minister. All 10 were adopted. One proposal was that the records of pardoned sex offenders be made available for consideration during screening of persons for positions of trust. The Solicitor General of Canada, with the support of the Minister of Justice,

undertook at that meeting to determine how best to do so, in consultation with provincial partners.

[English]

Consequently, Bill C-69 provides that when a criminal record that includes a sex offence is pardoned and is removed therefore from CPIC, a notation, or flag, will be left in its place. After that, when a screening check is conducted, that notation, that flag, will direct the police officer doing the search to submit the person's fingerprints to CPIC headquarters with a request for the record in question. The record will then be brought forward to the Solicitor General, who will consider its unsealing.

Honourable senators, it might be argued that this measure runs counter to the fundamental intent of the Criminal Records Act. However, this is a narrow and limited exception that is warranted. Ministers of Justice from all jurisdictions have supported this principle. Not taking this step would mean that a predatory sex offender might work his way into a position of trust with vulnerable people.

It is, as I say, a narrow exception. Only certain sex offences that will be named in regulations will cause a flag to be placed on CPIC; and the flag will only become visible during a search that is for the purpose of screening. The fact that the search is being conducted for the purpose of screening will be indicated by the entry of a code on the computer terminal. Unauthorized use of that code will be prohibited by the act and by CPIC policy.

Consent of the applicant will always be required. An applicant who does not wish to disclose his or her record will, of course, retain the option of abandoning the application for that particular position.

The fingerprints of the person involved will accompany the request to unseal a pardoned record so as to ensure the accurate identification of the applicant.

Finally, the Solicitor General must agree that disclosure of the record is warranted. Regulations to the act will specify the factors that the Solicitor General considers in making his decision whether or not to unseal a record.

[Translation]

Before concluding, I would like to mention that Bill C-69 will also clarify the system of pardon and consolidate in other respects. For example, it automatically revokes pardon for subsequent convictions for what is called a hybrid offence, that is an offence that is either a summary or an indictable conviction.

At present, automatic revocation applies only to indictable offences. In addition, a waiting period of at least one year will be required before an applicant who has been denied pardon may reapply.

Appeals to the board in the cases of denial or revocation of a pardon will now normally be in writing only. The act will specify more clearly that the effect of the pardon is to seal the record and not to expunge the fact of conviction.

[English]

Honourable senators, these are important changes. They are based on experience with earlier and effective measures already instituted by the government. They respond to the unanimous recommendation of provincial and territorial ministers. They received the unanimous support of all parties in the other place. They are consistent, I believe, with the concern that we all share to do all that is possible to protect our children and vulnerable adults from predatory sexual offenders. For those reasons, I believe that Bill C-69 merits our support.

[Translation]

Hon. Pierre Claude Nolin: The regulatory power referred to in the bill is a matter of policy. What lies behind the government's policy?

With respect to clause 8, which gives the Governor in Council power to make regulations, why will the list of offences referred to in the bill be created, changed, lengthened or shortened by this regulatory power?

Why are the definitions of "children" and "vulnerable persons" also subject to regulatory power? We should be able to agree on these definitions. Why leave it to the regulatory power to contain the ministerial authorization provided in the bill?

What is the government policy? The powers accorded the Governor in Council seem exorbitant and should be settled during consideration of the bill.

[English]

• (1510)

Senator Fraser: Honourable senators, I am sure that in committee we will be able to ask such questions of the minister and his officials. In general, the object is to avoid having to re-amend this law if the Criminal Code itself, as it relates to sexual offences, is amended. That will avoid further complication and further legislative difficulty.

I do not believe that there is a principle at work here. In my briefings and discussions preparatory to presenting this bill, I understood this to be simply a matter of clarity, and nothing else. There is no great principle here to the effect that only the Solicitor General has the right to determine what Parliament, in fact, determines — the nature of a sexual offence.

On motion of Senator Nolin, debate adjourned.

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

SECOND READING—DEBATE ADJOURNED

Hon. Michael Kirby moved the second reading of Bill C-78, to establish the Public Sector Pension Investment Board, to

amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act.

He said: Honourable senators, as you are all aware, this bill contains major amendments to public service pension plans. These amendments are aimed at improving the financial management of the plans and ensuring their long-term sustainability. These amendments include many technical changes, including: changes to the way contribution rates are set, significant improvement in employees' pension benefits, and improved financial and plan management.

First, and most important, let me state that the benefits government employees contributed during their careers will be fully guaranteed, maintained and improved by the passage of this new bill.

To add some context, I should mention that Bill C-71, the 1998 Budget Implementation Bill, which was passed in this chamber recently, also introduced two important benefit improvements, namely, first, that future pension benefits will be calculated using the average of the best five consecutive years of earnings rather than the best six consecutive years, as in the current plan; and, second, that a five-year average of maximum pensionable earnings will be used to calculate the CPP-QPP related reduction, rather than the current three-year average. This will mean that most pensioners' benefits will be reduced by a lesser amount when they begin receiving Canada Pension Plan or QPP benefits.

Bill C-78 builds on Bill C-71 to improve the financial structure of public service pension plans. This should provide reassurance to current and past federal public service employees that the plans will continue to provide benefits through an improved management structure that allows increased flexibility.

When the Canada Pension Plan was established in 1966, it was integrated with existing public sector pension plans so that the combined annual contributions to the public sector plans and to the CPP would not be more than what employees were already contributing at that time.

Since 1986, however, the original contribution rate of Canadian employees to the CPP has risen from 1.8 per cent of insurable earnings to 3.5 per cent. If this trend continues, the CPP rate will climb to 4.95 per cent of wages and salaries by 2003. This means that each time contribution rates to the CPP increase, federal employees contribute less to their pension plans because their total contributions under the existing act are limited to 7.5 per cent.

As a result of the increase in CPP premiums, the government versus employee contribution proportions have gradually shifted from their initial and historical ratio of 60 per cent provided by the government and 40 per cent provided by employees to a current situation where 70 per cent is contributed by the government and 30 per cent is contributed by employees. If this trend is allowed to continue, the ratio will become 80/20 by the year 2003. If we reach a point where public servants pay only 20 per cent of the cost of their pensions, Canadian taxpayers, who have seen their own CPP contribution rates rise, would also be paying a disproportionate share of public service pension contribution. Clearly, therefore, inaction is not an option.

With this bill, the government is seeking to improve sustainability and re-establish fairness in the system. Like all of us, I should like to see the federal employees' pension plans on a sound financial footing, but in a way that is also fair to taxpayers.

Honourable senators, in recent years public service, RCMP and Canadian forces pension plans have built up a surplus of approximately \$30 billion. The existing legislation provides for mechanisms to manage pension plan deficits but not to manage any surpluses that accumulate. In fact, the existing legislation requires the government and, therefore, taxpayers to cover all deficits. Because the taxpayer has both shouldered the risk and paid for deficits in the early years of public service pension plans, it only makes sense that the taxpayers should also benefit from a surplus.

Prior to tabling this bill, the government tried to reach an agreement on a joint management framework consisting of risk and cost sharing with employee representatives. Unfortunately, a final agreement became impossible. The bill before us today, Bill C-78, addresses surpluses and deficits alike, and proposes mechanisms to dispose of future surpluses in a responsible manner.

The bill deals with surpluses in the following ways: First, it ensures the gradual reduction of existing surpluses over a period of 15 years. Furthermore, future surpluses will be dealt with by Treasury Board according to a range of options which include, among other things: reducing contributions for employees, or for the employer, or for both, or withdrawing amounts from the fund surpluses.

This bill does not close the door on sharing decision-making power with employees with regard to how future surpluses should be used. If representatives of present and retired employees were to agree to share the risks with Canadian taxpayers, the government would be prepared to co-manage the pension funds and to share any future surpluses with present and retired employees.

I can assure honourable senators that the government remains committed to this concept and is still hopeful that, at some point in time in the future, a sharing of decision-making power agreement can be reached.

In the meantime, in order to ensure the long-term financial stability of federal employees' pension funds, this bill will also create a Public Sector Pension Investment Board. This board will be independent of both employees and the employer. It will have a mandate to invest future employee and employer contributions in financial markets with a view to achieving maximum gain without undue risk, and it will be accountable to government, employees, retirees and Parliament.

Under the present legislation, the superannuation accounts are credited with interest on contributions as though they were invested in long-term Government of Canada bonds. In future, these contributions will be invested in diversified portfolios that should give a better yield. A better return on invested contributions could eventually mean lower costs for both employees and the employer.

For example, a 1 per cent improvement in the long-term performance of the public service pension plan fund could reduce its overall costs by 15 to 20 per cent. This market investment approach to improving sustainability has already been used with good results by other public pension plans.

Each year, the Public Sector Pension Investment Board, through the President of the Treasury Board, will table before Parliament an annual report on the results of its operations. By law, this report must contain the detailed information that Parliament will need to determine if the board is functioning to the benefit of beneficiaries. If the return on the investments is lower than expected, plan members would receive the same level of pension benefit for which they contributed during their careers, including 100 per cent inflation protection. The government guarantees the integrity of the benefits of employee pension funds and will continue to cover the shortfalls, if any.

Honourable senators, I previously emphasized the government's intention to be fair to stakeholders in the measures proposed under Bill C-78. In addition to the measures I have already described, the government will freeze public servants' current contribution rates to their pension plans until the year 2003, when annual CPP increases end. In 2004, the government may, if required at the time, gradually increase contribution rates to public sector pension plans. Any such increase would be limited to 0.4 per cent of earnings per year.

In short, this means that as a result of Bill C-71, the 1998 Budget Implementation Act, together with this bill, the government will increase employees' pensions while simultaneously freezing contributions to the employee plan for the next four years.

Honourable senators should also be aware that this bill includes a series of technical changes to improve other benefits linked to federal employee pension plans. The Government of Canada will thus be bringing its pension plans in line with those of provincial governments such as Nova Scotia, British Columbia, Ontario, New Brunswick and Saskatchewan. In the private sector as well, many employers have adjusted their pension plans to today's reality.

The improvements to public service benefits will include, first, under the supplementary death benefits plan, which is the group life insurance plan under the Public Service Superannuation Act, that the benefit to eligible employees will double to \$10,000 once they reach 65, and will also delay the onset of coverage reduction. Second, it will reduce contribution rates to the Supplementary Death Benefits plan by 25 per cent. Third, Bill C-78 will also extend survivor benefits to the same-sex partners of pension plan contributors based on the same criteria as for common-law spouses. This would bring the public service pension plans in line with a number of recent decisions rendered by the courts, including the recent decision by the Supreme Court of Canada. Finally, this bill will establish a separate pension plan for Canada Post employees so that Canada Post can manage its own pension plan, just as many other major employers do.

• (1520)

The Canada Post plan would come into effect on October 1, 2000, approximately 18 months from now, and would reflect the amendment to the Public Service Superannuation Act. Canada Post employees can rest assured that the value of past service for pension purposes will be totally protected. Employee benefits will be the same as under the Public Service Superannuation Act. The terms of the plan would be negotiable under the terms of the Canada Labour Code after one year of its implementation.

Honourable senators, I am convinced that the proposed technical amendments to the Public Service Superannuation Act, the Canadian Forces Superannuation Act and the Royal Canadian Mounted Police Superannuation Act are realistic and fair for both employees and taxpayers. They will be beneficial to all stakeholders. Some people may still criticize the government for acting unilaterally in determining these major changes to federal employees' pension plans, but for the reasons I outlined earlier in my remarks, it would be irresponsible for the government to delay any longer.

Nevertheless, this bill is the product of extensive consultation with representatives of beneficiaries under the Public Service Superannuation Act. Although it is unfortunate that no negotiated agreement was possible, the bill takes into account the views of all those involved in those negotiations.

The time to act is long overdue. This bill has been developed in a spirit of fairness toward both federal employees and Canadian taxpayers. As I have just explained, this bill will improve the financial sustainability of the public service pension plans and the benefits available to the beneficiaries of these plans.

Honourable senators, I hope that you will see the necessity of these reforms in promoting the fairness and sustainability of public service pension plans, and vote accordingly.

On motion of Senator Stratton, debate adjourned.

CANADA TRAVELLING EXHIBITIONS INDEMNIFICATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Vivienne Poy moved second reading of Bill C-64, to establish an indemnification program for travelling exhibitions.

She said: Honourable senators, I am pleased to speak in favour of Bill C-64, which proposes a win-win situation for all Canadians. It is a fact that our museums, galleries, libraries and archives house some of the finest treasures in the world. It is a fact that most Canadians never get to see even a part of our magnificent collections.

[*Translation*]

On one hand, the vastness of our territory represents an obstacle for many people who have neither the means nor the time to see a collection or an exhibition in a facility far removed from them.

[*English*]

The cost of circulating a major exhibition can be exorbitant, sometimes prohibitively high. However, all citizens should have access to their cultural heritage. It would benefit all Canadians and our foreign visitors to know Canada better. It would be to the advantage of our heritage institutions to be able to provide better access to heritage collections.

Honourable senators, this bill is part of the solution to the problem of access. A significant cost associated with travelling exhibitions is the cost of insurance that can sometimes approach \$1 million in premiums for a single exhibition. At a time when institutions must make every penny count, the cost of insurance is a factor that argues against travelling exhibitions. With this bill, we can eliminate the high cost of insurance by replacing it with an indemnification program that would fall under the responsibility of the federal government.

That is not a new idea. That is a concept that is already well established. As many as 14 industrialized nations have successfully operated indemnification programs for travelling exhibitions for many years. We have closely examined the administration and successful track records of indemnification programs in a number of countries, including the United States, Great Britain, New Zealand, Australia and France. In all cases, these programs provided access to greater numbers of exhibitions.

[*Translation*]

When one insures a travelling exhibition, it is as though one were to make all the preparations for a trip and then find oneself unable to pay for a tank of gas.

[English]

A program of indemnification will allow travelling exhibitions to hit the road. Instead of requiring advance payment in the form of an insurance premium in anticipation of a possible loss, an indemnification program involves expense only where loss or damage actually occurs.

To take the example of the United States, in 23 years of operation their indemnification program, with an annual indemnification value of \$3 billion, has paid out a total of only U.S. \$100,000 for two claims. In my book, those are pretty impressive odds. The United States is not an isolated case. All other countries with an indemnification program report similar results.

Risk for the indemnifier is at a minimum because there are stringent eligibility criteria. Security plans, environment control and how the artefacts are handled are all taken into consideration before an exhibition is indemnified.

[Translation]

Other conditions, such as a scale of deductibles and a minimum value, eliminate any possibility of minor claims.

[English]

• (1530)

The total amount of indemnification coverage provided by the government each year will be limited to \$1.5 billion.

There are other benefits that are equally important in this equation. If indemnification enables more exhibitions to travel, we are looking at more jobs, more spending and more tax revenue. These economic benefits will apply to the institutions housing the exhibitions, to the local municipality, the region and all levels of government. An indemnification program will provide benefits for all Canadians.

[Translation]

This bill will help increase access to Canada's heritage and stimulate the economy.

[English]

Honourable senators, I trust you will agree that this is a very useful bill that should be passed to help the government serve the needs of all Canadians.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, this bill will provide museums with government assistance for insurance purposes. Is Senator Poy aware that, in 1995, legislation similar to this bill enacted by the Mulroney government in 1985 was

repealed and that the government is now trying to reintroduce the proposal?

[English]

Senator Poy: Honourable senators, unfortunately, I was not here. Therefore, I am not aware of it and I have not been briefed on that. Nevertheless, I think it is a very useful bill and Canadians do need it.

On motion of Senator Rivest, debate adjourned.

INCOME TAX AMENDMENTS BILL, 1998

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Callbeck, seconded by the Honourable Senator Cook, for the third reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

Hon. David Tkachuk: Honourable senators, I am pleased to rise to speak to Bill C-72 on third reading. This bill deals with targeted tax relief from the 1998 budget, along with Bill C-71, which contains targeted tax relief and targeted tax expenditures for the 1999 budget.

While tax relief is much needed, the Canadian tax system itself is nothing more than social policy in bad disguise.

With every effort to provide tax cuts or tax increases to a segment of our population, tax policy becomes more complex. We all know that, as every April we try to sort out what is taxable and what is not, what we receive and what we get back and what we must pay.

Every tax subsidy, including those contained here in Bill C-72, tends to breed demand for more tax subsidies. Worst of all, selected tax reductions have been poorly targeted and have to date been ineffective. Successive budgets have brought Canadians a system of special treatment and a system which is becoming more difficult politically to install than a simpler, loophole-free, low-tax system which is what we would like to see advocated.

Honourable senators, our current tax system is broken. It is complex and unfair. It inhibits savings, investment and job creation. It imposes a heavy burden on families and undermines the integrity of the democratic process for it seeks to extract wealth and personal property under law.

Rather than continuing to complicate the tax code, I suggest an end to the tuning and tinkering. I am seeking a complete repeal and replacement of the tax code with a flat or flatter tax solution. By repealing the tax code, we would be repealing the proliferation of deductions, credits and other special tax preferences to the tax law we have today.

No longer would Canadians need to spend hundreds of millions of hours complying with the tax code which, it seems, is estimated to take more time than it takes to build every car, truck and van produced in Canada. I suggest that the typical Canadian family now pays more in taxes than it spends on food, clothing, transportation and shelter combined.

For what, honourable senators — to reduce incomes through punitive taxes on savings, work and entrepreneurship. The tax code places multiple layers of tax on savings, thus reducing investments in equipment and technology that make Canadian workers more efficient and more competitive. High tax rates on the last dollar earned discourage work and savings and entrepreneurial activity, which leads to a smaller and smaller economy. This point becomes apparent when we hear: There is no use in me working overtime. I will pay it all to the government anyway, so why work more?

By favouring certain economic activities over others, the tax code distorts financial decisions and reduces economic efficiencies. Bureaucrats make decisions that people in the market economy should be making. For these reasons, a repeal of the current tax code in favour of a flat-tax solution is a good idea.

For Canada, a flat tax would replace the maze of exemptions, loopholes and targeted breaks with a simple tax system, one that could be put on an 8.5-by-11-inch sheet, printed both sides, one in French, one in English, thereby reducing the compliance costs by over 90 per cent. It would restore fairness to the tax law by treating everyone the same. It would eliminate lobbyists through the elimination of exemptions and loopholes. It would promote prosperity because the flat tax would treat all economic activity equally, thereby promoting greater efficiency and increased prosperity.

It would lower taxes. There could be a generous personal allowance through a uniform tax rate of 17 or 20 per cent with no tax expenditures or loopholes. It would be progressive. Because of the personal and dependent allowances, the more you earn, the more income tax you pay. It would be pro-family by eliminating the marriage penalty found in the current tax code and by increasing substantially the personal allowances for dependent children.

It would be pro-taxpayer, as a flat tax gives Canadians more freedom to make their own economic decisions and provides greater privacy because Canadians would be required to disclose less information to Revenue Canada.

It would promote honesty by eliminating itemized deductions, special breaks, dividends and capital gains taxation. It would promote giving to charitable organizations as increases in donations have closely tracked increases in personal tax income.

Honourable senators, flat taxes are not a new tax phenomenon since flat taxes are the single most common arrangement in tax codes of most countries. Over 80 per cent of corporate income tax codes are flat at an average rate of 30 per cent. About 50 per cent of capital gains tax codes are flat with an average rate of 28 per cent. Furthermore, the flat tax case is compelling based on its simplicity and, more important, its effect on investment. By reducing the tax on investment to zero, the flat tax would produce a large surge in investment in capital formation.

Honourable senators, as I have mentioned, a flat tax proposal to increase substantially the personal allowance to, say, \$12,000 for a single, \$15,000 for a single head of a household and \$24,000 for married persons filing jointly and, say, \$5,500 for each dependent not including the spouse. Low- to middle-income individuals and families would clearly benefit from such an arrangement.

Would the rich benefit? Not likely, since all other incomes would be taxed, leaving no loopholes, no deductions and exemptions accruing to the rich, thereby shifting the tax burden from poor and middle class wage-earners to those with higher incomes. A person with 10 times the income would not pay the least. His income tax would be 10 times as high.

I wish to restate that the current income tax system punishes the economy, imposes heavy compliance costs on taxpayers, rewards special interest groups and makes Canada less competitive.

Honourable senators, there never will be a tax that is good for the economy, but a flatter tax would move the system much closer to where it should be, raising the revenues government needs but in the least destructive and intrusive way possible.

On motion of Senator Kinsella, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the second reading of Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

She said: Honourable senators, it is my pleasure to speak in support of Bill C-79, to amend the Criminal Code, victims of crime, and another act in consequence.

[Translation]

As you know, honourable senators, many members of all parties, defenders of victims' rights and suppliers of services support this bill.

We are now in a position to support these important amendments. It is not surprising that many Canadians are disillusioned with our criminal justice system. The government realizes that it must do everything possible to restore the confidence of Canadians in that system.

[English]

Despite the declining rate of crime in Canada, we can all point to someone close to us who has been touched by crime in some way. Responding to the needs and concerns of victims of crime is an integral part of rebuilding the lost faith in our criminal justice system.

Victims of crime face many hurdles — those associated with dealing with the crime itself and those associated with dealing with an unknown, and often impersonal, criminal justice system. While it may be impossible in some cases to restore the damages or losses caused by the crime, no doubt the victim's experience with the system — that is, the police, the courts, the parole board — can be improved.

Before outlining the key features of Bill C-79, it is important for honourable senators to appreciate how these amendments to the Criminal Code came about. In 1996, the House of Commons Standing Committee on Justice and Legal Affairs, as it was then known, was mandated to conduct a review of the victim's role in the criminal justice system, including exploration of the notion of a Bill of Rights for victims. In 1998, the Standing Committee on Justice and Human Rights launched a comprehensive review of the victim's role in the criminal justice system and heard from a wide range of interested groups and individuals in hearings, town hall meetings, and at a national forum which included victims, victim advocates, victim service providers, members of the bar, Crown attorneys, police, academics, and other provincial officials.

The standing committee tabled their 14th report in the House of Commons on October 28, 1998, entitled "Victims' Rights — A Voice, Not a Veto." The chair of this committee was the late Shaughnessy Cohen, and for many of us this is Shaughnessy Cohen's last bill.

The report includes 17 recommendations calling for Criminal Code amendments to facilitate the victim's participation in the criminal proceedings. The government's response to the standing committee's report was tabled and released to the public on December 15, 1998. The response supports all of the committee's recommendations in principle and sets out how the recommendations will be implemented. Bill C-79 addresses those recommendations which call for amendment to the Criminal Code.

Honourable senators, the Criminal Code of Canada currently includes several provisions designed to help victims and witnesses participate in the criminal justice system. For example, written victim impact statements can now be submitted at sentencing. A judge can impose an additional penalty known as a victim fine surcharge on a convicted offender, with the revenue dedicated to victim services. Young victims of certain offences can testify from behind a screen or by closed circuit television, and publication bans on the identity of sexual offence complainants are available. Bill C-79 builds on these provisions

and enacts additional reforms. Let me take a moment to highlight the provisions.

The victim impact statement is the mechanism recognized by our law which gives victims of crime a role and a voice at sentencing of the criminal. The statement is a description of the harm done or loss suffered by the victim — in other words, the impact from their personal point of view. The victim impact statement must be considered by the sentencing judge along with the other relevant information.

Bill C-79 will enhance and expand the opportunities for victims of crime to make an oral as well as a written victim impact statement. Where the victim does not choose to present the statement orally, the judge will still be required to consider the written statement when determining an appropriate sentence. It is always to be the victim's choice whether to prepare a victim impact statement. Some victims may not wish to do so. However, Bill C-79 would require that a judge make inquiries, after a determination of guilt and before sentencing, as to whether a victim has been informed of the opportunity to prepare such a statement. This amendment is intended to provide one last check on the information that a victim should have received. The ability to prepare and submit a victim impact statement is of little benefit to a victim if the victim is not aware that he or she could make such a statement.

Victim impact statements will also be available to victims where the offender is found not criminally responsible for the offence committed. Currently, when an accused person is found not criminally responsible by way of a mental disorder, there is no opportunity for the victim to describe the impact of the offence. This is because an accused person suffering from a mental disorder is not sentenced because they are held not to be criminally responsible. The current victim impact provisions only apply at the time of sentencing. The reality, though, is that victims of offenders suffering from a mental disorder are, nonetheless, victims of crime, and should have a similar opportunity to describe the impact.

Another important provision is victim safety. Victims of crime and victim advocates have highlighted that when making important decisions about an accused person's release, decisions that may have serious consequences for a victim's or witness's safety or security, the victim's safety should be a key consideration. Bill C-79 amends the judicial interim release or bail provisions so that in determining whether to release an accused person, the judicial officer responsible, whether the police officer, justice or judge, must take into account the need to ensure the safety and security of the victim of the offence.

The amendments add a specific reference to the victim. This reference is very significant because, in the current provisions, the interests of society are considered but the specific interests of the victim are not mentioned. The prevailing tests for release have not been changed; rather, the considerations are expanded to include victim safety. The responsible judicial officer will, as a matter of course, consider the need to ensure the victim's safety.

In addition, where an accused is released, the conditions of release can include any condition necessary to ensure the safety and security of the victim. These tailor-made conditions can address the particular circumstances of the case and of the victim. In addition, the more common non-communication orders will clarify that both direct and indirect communication by the offender to a victim or witness is prohibited.

Honourable senators, although our law has required judges to impose a victim surcharge on all offenders since 1989, the amendments included in Bill C-79 will significantly improve the effectiveness of the surcharge. A victim surcharge is an additional monetary penalty on offenders, additional to the sentence imposed upon them. The surcharge is similar to a fine, except that the money raised by the surcharge is deposited into a dedicated fund in each province or territory and is used to provide services and programs to victims of crime.

• (1550)

Equally as important, the obligation on an offender to pay the victim surcharge highlights that real people suffer from crime and need assistance to deal with their victimization, and that offenders should be held responsible in some small way.

Under the new regime, all offenders will be liable to pay a victim surcharge of a mandatory minimum amount. The code provision will make it clear that the offender "shall pay" the surcharge. There is no requirement for the judge to make an order requiring the offender to pay the standard amount. The standard surcharge will be 15 per cent of the fine, where a fine is imposed as the sentence, and where another sentence is imposed — that is, not a fine — the surcharge will be \$50 for summary conviction offences and \$100 for indictable offences.

A judge will be able to waive the offender's obligation to pay the surcharge only where the offender raises and establishes that undue hardship will result. In addition, a judge has the discretion to order an increased amount for the surcharge in appropriate cases, and where it is clear the offender has the ability to pay. The new provision will be referred to as the "victim surcharge" rather than the "victim fine surcharge" to clarify that this additional penalty applies to all offenders, whether their sentence is a fine or not.

Several other amendments are included in Bill C-79 and are designed to ease the burden on a victim while testifying. These amendments will, for example, extend to victims of sexual or violent crime up to 18 years of age protections which restrict personal cross-examination by a self-represented accused person by providing for the appointment of counsel to conduct the cross-examination. They will permit a victim or witness with a mental or physical disability to have a support person present while giving testimony. They will permit a judge to restrict publication of the identity of a wider range of victims or witnesses where the victim has established a need for such an

order, and where the judge considers it necessary for the proper administration of justice. This provision will codify the prevailing common law and procedure as established by the Supreme Court of Canada.

Other significant amendments will address the concerns of surviving victims of homicide by providing more information about life sentences. The amendments will, for example, require a judge to state, for the record and for the benefit of surviving victims, that an offender convicted of murder who has received a life sentence may apply for a reduction in the number of years before he or she is eligible to apply to a court for parole after serving at least 15 years of that sentence.

As well, the amendments will clarify that at proceedings to determine whether an offender should have his or her parole eligibility reduced — and that refers to those section 745.6 hearings — the information provided by the victim may be oral or written at the option of the victim. At present, the Criminal Code provides that any information provided by the victim will be considered. However, in practice, some victims have been discouraged from making an oral statement.

I am particularly pleased with this amendment, as honourable senators will remember that the Standing Senate Committee on Legal and Constitutional Affairs in its December 5, 1996 report on Bill C-45, to amend the Criminal Code, parole eligibility, recommended that the Minister of Justice "use whatever measures at his or her disposal to inform the public about section 745.6, including the discussions with provincial Attorneys General, so together they may find the means by which victims' families could have full knowledge of this section." I am happy to see the minister responding in such a positive and proactive way to a report from this chamber.

As I said earlier, I am sure that all of us have been touched by crime in some way. Everyone knows someone who has been, or has themselves been, a victim of crime. No two victimizations are the same — one can hardly compare the inconvenience of a stolen car to the trauma and grief of a violent personal attack. Yet, all victims of crime have basic needs and expectations from the criminal justice system. They have a need for information. They have a need for safety. They have a need for their voice to be listened to and respected. The amendments in Bill C-79 will result in a comprehensive range of provisions in our Criminal Code to address these basic needs.

[Translation]

Honourable senators, I urge you all to give strong support to these amendments so that the bill may be quickly passed and receive Royal Assent. Victims must be able to benefit from these amendments as quickly as possible.

On motion of Senator Kinsella, for Senator LeBreton, debate adjourned.

[English]

**FOREIGN PUBLISHERS
ADVERTISING SERVICES BILL**

CONSIDERATION OF REPORT OF COMMITTEE—
DEBATE SUSPENDED TO AWAIT SPEAKER'S RULING

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.

The Hon. the Speaker: Honourable senators, I have not received the ruling as yet. However, it is at the translation stage. We worked on it last night, and again this morning. Therefore, as such, I am unable to give my ruling now.

There is, however, a bit of business that we might complete. The motion was not moved yesterday. The point of order was taken first on the Orders of the Day. If you wish, I am in your hands in that regard.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move that the report be adopted and that we then await the Speaker's ruling.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Callbeck, that the report be adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Carstairs: Subject to the Speaker's ruling.

The Hon. the Speaker: This order will stand, awaiting the Speaker's ruling. Is it agreed?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, when the order was originally called, a point of order was raised. We are awaiting the ruling on that point of order, and I feel that this procedure is out of order. In my view, we must wait until the Speaker's ruling has been given. If it is in order, we can then have the motion.

Senator Carstairs: With the greatest of respect, there could not have been a point of order yesterday unless the report had been moved. Senator Lynch-Staunton raised a point of order on an item that was not before the Senate. We have now placed it before the Senate, and we are awaiting the Speaker's ruling.

The Hon. the Speaker: Is that agreed?

Hon. Senators: Agreed.

Debate suspended to await Speaker's ruling.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I believe that there is agreement to stand the remaining items on the Order Paper.

The Hon. the Speaker: Is that agreed, honourable senators, that all other items stand as they are now on the Order Paper and that we proceed directly to the adjournment?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

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Debates of the Senate

1st SESSION

• 36th PARLIAMENT

• VOLUME 137

• NUMBER 144

OFFICIAL REPORT
(HANSARD)

Thursday, June 3, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 995-5805

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THE SENATE

Thursday, June 3, 1999

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I would like to call your attention to the presence of some distinguished visitors in our gallery. They are the members of the Italian Canadian Businessmen's Association, along with their president, Nino Colavecchio. They are here at the invitation of Senator Ferretti Barth. We welcome them to the Senate.

[English]

SENATORS' STATEMENTS

NORTH AMERICAN FREE TRADE AGREEMENT

FIFTH ANNIVERSARY

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this year marks the fifth anniversary of the North American Free Trade Agreement between Canada and the United States and Mexico. By any measure, it has been an unqualified success for Canada and for our NAFTA partners. This agreement has helped us build a true NAFTA family where our peoples can collectively enjoy the benefits of a unique political, economic and cultural partnership.

The numbers speak for themselves. Canada's exports to the United States and Mexico have grown by 80 per cent and 65 per cent respectively since the NAFTA was implemented on January 1, 1994. Indeed, trade and investment flows among all three NAFTA partners have increased substantially as a result of the agreement. The Canadian economy continues to expand, and more than 1 million new jobs have been created in Canada since NAFTA came into force.

Last year, the United States, Mexico and Canada launched a comprehensive review of the NAFTA to examine achievements to date and to set priorities for the road ahead. This review highlighted a number of important achievements. Tariff elimination is proceeding ahead of schedule. Non-tariff barriers to trade are being removed. The standards regimes of the NAFTA parties are being made more compatible in areas like telecommunications and transportation.

All of these improvements have made it easier than ever for Canadians to succeed and to do business across North America. Yet there is still more work to be done. Important discussions are underway to clarify the expropriation and compensation provisions of the NAFTA's investment chapter to provide greater certainty as to the intent of the parties in this area. The parties are also looking to achieve greater transparency in the NAFTA institutions as a whole, including the investor state dispute-settlement procedures.

The more Canadians understand about the agreement, the more their already high level of support for the NAFTA will be strengthened.

While the vast majority of trade between the NAFTA members flows unimpeded, the NAFTA's rules have created a strong framework by which we can resolve disputes when they do arise. That has provided stability and predictability to entrepreneurs in all three countries. Clearly it has helped to multiply the number of business opportunities for Canadian firms and has made North America one of the most dynamic and prosperous trade areas in the world.

The NAFTA provides preferential and secure access to the rich North American markets, which is particularly reassuring at a time of global economic uncertainty and turmoil in many other international markets. As we look ahead to the next five years, I am confident the NAFTA will continue to serve as a powerful locomotive for increased trade, investment and jobs for all Canadians.

I want to assure all honourable senators that this statement was not prepared for me by former prime minister Brian Mulroney, although I suspect that he is aware of it, because I found it in a booklet entitled, "The NAFTA after Five Years: A Partnership At Work." That booklet was issued by the Department of Foreign Affairs and International Trade. The statement, with only minor changes, is identified as a "Message from the Minister," with his picture alongside and the signature of Sergio Marchi below.

• (1410)

Last week — May 27, to be exact — marked the sixth anniversary of the vote in the House of Commons on the enabling legislation confirming the NAFTA. Minister Marchi, whose support of the NAFTA today is unlimited in its enthusiasm, voted against the legislation. Joining him in the vote against the NAFTA were the Prime Minister of Canada, the Deputy Prime Minister, the Minister of Foreign Affairs, the Minister of Canadian Heritage, the Minister of Finance, the Minister of Veterans Affairs, the Minister of Agriculture, the Minister of Public Works, the Solicitor General, the Minister of Industry, the Minister of International Cooperation, and our present High Commissioner to London.

Honourable senators, January 1, 2001, will mark the tenth anniversary of the goods and services tax being in place. I look forward to putting on the record a statement in praise of it, preferably by a Conservative Minister of Finance.

FIFTY-FIFTH ANNIVERSARY OF D-DAY

Hon. R. James Balfour: Honourable senators, Sunday, June 6, 1999, will mark the fifty-fifth anniversary of the Allied landings in France in 1944, a date which will be forever known as D-day.

Canada was a full partner in this great enterprise. Hundreds of thousands of Canadian servicemen and women serving in the Royal Canadian Navy, the Royal Canadian Air Force, with other Allied services, and in the Merchant Marine of Canada, all made their individual contributions to defeating a brutal and determined Nazi war machine.

It should not be forgotten that these Canadians in uniform, volunteers all, were but the cutting edge of a national effort that stretched back to every factory, farm and fishery of our country. Foremost in the massive endeavour that was D-day was the Canadian army.

In 1944, the Canadian army overseas was over 270,000 men strong. Our country, then 12 million people, had fielded three infantry and two armoured divisions, two independent army tank brigades, two corps headquarters, an army headquarters, and the full range of supporting arms and services.

On D-day, the Canadian army had already been battling the Axis powers in Sicily and Italy for over a year, where the Allies had just advanced to liberate Rome. On the beaches of Normandy, in the pre-dawn of that June morning, the 3rd Canadian Infantry Division, supported by the 2nd Canadian Armoured Brigade, was one of the eight Allied assault divisions that landed from the sea and from the air.

On "MIKE" Beach, at Courseulles-sur-Mer, it was the men of the Regina Rifles, the Royal Winnipeg Rifles, and the 1st Battalion, the Canadian Scottish Regiment, supported by the tanks of First Hussars, whose collective military prowess overcame a stubborn defence, at no small cost in casualties.

At Bernières-sur-Mer, the Queen's Own Rifles of Canada, the North Shore (New Brunswick) Regiment and Le Régiment de la Chaudière, supported by the tanks of The Fort Garry Horse, fought ashore on "NAN" Beach and overcame the enemy to establish an Allied foothold in continental Europe.

Also fighting on the Normandy beaches that morning were the guns of the Royal Canadian Artillery, sappers in field companies of the Royal Canadian Engineers, and members of all the other corps who serve to give an all-arms battle formation its fighting strength.

Separate from the main Canadian assault, the 1st Canadian Parachute Battalion, operating under the command of British

6th Airborne Division, was dropped to seize crossings on the River Dives.

These Canadians served in a powerful, cohesive, identifiably Canadian force, whose existence and achievements are the bedrock of the respect and stature that Canada and Canadians enjoy throughout the world to this day. The valiant efforts of these men and women on D-day, and throughout World War II, built on the sterling reputation of their forefathers who formed The Canadian Corps in World War I. This is a reputation that is now maintained by their sons and daughters, grandsons and granddaughters, who serve in the Canadian Forces today.

Honourable senators, I rise today to formally note, on behalf of this chamber and all Canadians, the determination, bravery and sacrifice of all those who fought for Canada in the Allied invasion of Nazi-occupied France, 55 years ago this Sunday.

[Translation]

WORLD POPULATION DAY

Hon. Rose-Marie Losier-Cool: Honourable senators, in my capacity as co-chair of the Canadian Association of Parliamentarians on Population and Development, I should like to point out that July 11, 1999 will be World Population Day.

This is an opportunity for all Canadians to learn more about population issues. I would like to take this opportunity to encourage all parliamentarians to take part in consciousness-raising activities around World Population Day.

The world's population is now up to 5.9 billion. It increases 1.33 per cent every year, which means an additional 78 million people, 97 per cent of whom are born in the less developed regions of the world.

On October 12, 1999, the world's population will reach the six billion mark. The population is increasing proportionately every year. This leaves us facing the challenge of dealing with such universal issues as food safety, ageing, reproductive health, and human resource development.

[English]

As the world approaches the 6 billion mark, it is important to note that 9 out of the 10 fastest growing national populations are found in the developing world. We are also faced with constant aging of the world's population. As the proportion of elderly citizens grows around the world, particularly in its poorest regions, we will undoubtedly face serious challenges in health care.

[Translation]

World Population Day affords us, as Parliamentarians, the opportunity to inform Canadians of developing trends in world population with a view to a better understanding of the future we share.

[English]

With respect to population and development, the Canadian Association of Parliamentarians has been an active promoter of awareness of these matters. I encourage all senators to participate in the activities surrounding World Population Day and to continue to promote this awareness in their own communities.

DEVELOPMENT OF OFFSHORE RESOURCES AND THE ENVIRONMENT

Hon. Donald H. Oliver: Honourable senators, I wish to take this opportunity to comment on a conundrum that we are encountering more and more in Canada — the competing claims of environmental protection for pre-eminence over the equally valid demands for development of our offshore resources.

Specifically, the George's Bank Review Panel is presently seized with the issue of whether to extend the moratorium that prevents offshore oil and gas development off George's Bank. George's Bank, as you all know, is one of the richest fishery resources in the Atlantic, off Nova Scotia and New England.

The fear on the part of the fishing interests and environmentalists is that drilling near this lucrative feeding and spawning ground may do irreparable damage to what remains of our East Coast fishing industry. Competing against these claims are the desires of petroleum-related industries that Nova Scotia — and Atlantic Canada in general — needs another Sable Island project or its GDP, or the current increase in employment, will either stagnate or drop from its current level.

I raise this issue today because of a letter I received from Mr. John McDonald, president of Seimac Corporation, dated April 22, 1999. He wrote to me as the owner of an export-oriented company struggling to stay in Nova Scotia in the face of business and personal taxes that are far too high and cannot be sustained. He felt compelled to comment, in his letter to me, on the George's Bank moratorium issue. He feels that by letting the moratorium expire Nova Scotians will be able to control George's Bank and develop it in the interests of all the citizens of Atlantic Canada.

Honourable senators, what struck me was that he wrote to say he was struggling to stay in Nova Scotia in the face of business and personal taxes that are far too high, but at the same time as maintaining these high taxes, we do precious little to allow industry, in particular small business, to be competitive.

I have read the brief submitted to the George's Bank Review Panel by the Offshore Technologies Association of Nova Scotia. The brief presents one possible solution to dealing with the various competing interests off George's Bank. What it does deal with, however, is the position of the Nova Scotia fishermen, who have a legitimate fear that the lucrative fishery will be ruined if drilling and other petroleum-related operations take place. On the other hand, it seems that, if the review panel were properly balanced with those who understand the interests of the fishermen, this solution might allow Mr. MacDonald and others

to stay in Nova Scotia and get on with their business lives, thus contributing to the economy of Atlantic Canada.

• (1420)

CHINA

HUMAN RIGHTS—CANADA'S FOREIGN POLICY

Hon. Jack Austin: Honourable senators, on Monday, May 31, Senator Di Nino made some comments regarding human rights in China. He referred to the tenth anniversary of the death of Chinese students and other citizens who had massed in Tiananmen Square to demonstrate against corruption and for democratic change.

Apart from declaiming against the Chinese government, it is not clear what Senator Di Nino would recommend as Canadian policy towards China 10 years later. What policies would flow from Senator Di Nino's statement that, "In terms of importance, human rights should rank far above trade statistics"?

Perhaps Senator Di Nino and other out-of-work Cold War warriors think it would be desirable to renew policies of isolation and ostracization of China — policies followed with no obvious advantage by the United States and others from 1949 on, when China then sought a normal standing in the world community but was driven into isolation and thus to ally itself with the Soviet Union. That brought on a bipolar world with Vietnam, and other revolutions that took 30 years to pass through.

If you declare a nation to be your enemy and seek its punishment in isolation, then you can be certain that it will be your enemy with all the consequences. Does Senator Di Nino want to do a little war dance and take on one-fifth of humanity to prove his moral superiority? Let us be clear: China has lots of domestic problems, and the development of human rights and democracy are major issues for them and for us. But China has made great progress in its economic and social modernization since it returned to the international community 20 years ago. At no time in China's history have the lives of individual citizens been more free than they are today; at no time have they had more personal opportunity than they have today. It is not confrontation that should be the basis of Canada's policy, but engagement at a level of mutual respect. We have our system and we have our values, and we make them known to the Chinese. We do not compromise our values. However, we seek the progress of the Chinese people in their individual lives. As Honourable Raymond Chan has said, "Human dignity and human lives are the most valuable things a nation has."

Visiting Ottawa today is a team of experts from the National Peoples Congress. I met with them this morning. They are studying Canada's social policy system. China wants to introduce health care, pension, unemployment and welfare support programs for its citizens. Can we detect in that goal a regard for the individual? Should we support it? Would they be here if we reminded them at every encounter of something we disagreed with in their history? Do we do that with other nations?

The normalization of China's relations with the world is a key to the peace and prosperity of the entire globe. Through policy exchanges, trade exchanges and people exchanges, Canada is playing a useful role. China's accession to the WTO is the next major step that Canada and the Prime Minister are doing their best to facilitate. What is really required is that all sides summon the resources necessary to foster cooperation and prevent conflict. At all times, we must use our will and our energy to surmount the negative issues of the moment.

Senator Lynch-Staunton: Tell us about their spies!

FIFTY-FIFTH ANNIVERSARY OF D-DAY

Hon. J. Michael Forrestall: Honourable senators, in what Sir Winston Churchill described as "the most difficult and complicated operation that has ever taken place," on June 6, 1944, Canadians of the 3rd Canadian Infantry Division joined with their comrades-in-arms and landed on Juno Beach at Normandy. The Canadians were joined by four other infantry divisions that fateful day from the United States and the United Kingdom. The 3rd Canadian Division was supported in this holy crusade by ships and crews of the Royal Canadian Navy, the Merchant Navy, the aircraft and aircrack of the Royal Canadian Air Force, the Canadian Parachute Battalion and the 2nd Armoured Brigade, while the 2nd Canadian Infantry Division and the 4th Canadian Armoured Division waited in the United Kingdom to reinforce their fellow Canadians. They landed on the coast of France determined to stay, while the enemy soldiers of the Third Reich, waiting for them, hoped to push them back into the sea in what was one of the most decisive battles in military history.

John Keegan, in his monumental work, *Six Armies in Normandy*, said, "They took with them a blessed sense of release from the spectres from 22 months before on the beaches 70 miles to their east" — a reference to the horrible lessons of Dieppe. That was a lesson paid for in Canadian blood that sowed the seeds of victory in the D-day landings.

Field Marshal Montgomery of El Alamein fame said of the Canadians, "You would not see such a body of men in any other army in the world." He was absolutely right, for at the end of D-day, June 6, 1944, Canada had penetrated inland the farthest of any Allied division. They were the best of the best and, to paraphrase Shakespeare, "no table was better set."

They were seasick when they landed on the beaches or, more often than not, in hip- or chest-deep waters off the shores of France. Scared, tired, sick, and under fire, they moved inland decisively and aggressively to achieve their objectives. One Nova Scotian, a Cape Breton highlander, Sergeant Chandler, summed it up best when he said, "I was so sick that I did not care if the whole German army was on the beach. All I wanted to do was to get my feet on dry land."

Heroism was commonplace. One of the most memorable stories for me was that of Gilbert Boxall, a stretcher-bearer from Saskatchewan, who bravely crawled up and down the beach dressing the wounds of gravely injured Canadian soldiers. On D-day plus three, while moving to answer a cry for help, he was shot dead. When his body was examined, his friends found five dressings and wounds on his body — wounds that he never spoke of during the three days of intensive fighting.

Who could forget the story of our parachute battalion that jumped with the 6th British Airborne to seize bridges ahead of the landings — and its padre, who was killed when his chute failed to open? Who could forget the heroism of the CANLOAN officers with British units? Out of 673 CANLOAN lieutenants and captains, 127 were killed during the war; 338 were wounded or taken prisoner; and 41 were awarded military crosses.

To those of you who may be interested, assuming that you can find a copy of it, I recommend Colonel Roger MacLellan's book, *Wave an Arm "Follow Me."* It is well worth reading.

The Normandy landings, honourable senators, started the drive that eventually liberated Western Europe. When coupled with the Allied forces in Italy and Canada's prized and somewhat adored 1st Canadian Infantry Division — those homegrown soldiers, the landings brought disaster upon the German army of Hitler's Third Reich. Field Marshal Rommel, the Desert Fox, said of D-day, "Believe me, the first 24 hours of the invasion will be decisive...the fate of Germany depends on the outcome...for the Allies as well as Germany, it will be the longest day."

In fact, it was on that "longest day" that victory was determined, and by June 12 the Allies had established a bridgehead — a springboard of victory — that was 25 kilometres deep and 97 kilometres long. To those brave Canadian and Allied soldiers, some 55 years later, we say a very humble "Thank you."

[Translation]

Hon. Michael A. Meighen: Honourable senators, I wish to subscribe wholeheartedly to what my colleagues Senators Balfour and Forrestall have said. I bow to their eloquence and their knowledge of military history.

[English]

Having just returned myself from a trip to the Normandy beaches, I could not let today pass without saying a word or two about that.

It was a trip, yes, but as I stood on the beaches at Bernières-sur-Mer and Saint-Aubin-sur-Mer and Courseulles, it became sort of a personal pilgrimage. It became so even more deeply when I went to the cemeteries at Cintheaux and Bény-sur-Mer and saw the graves of some 5,000 Canadians who still rest in the soil of France, whose graves, I can assure all honourable senators, are attended with the greatest interest, care and affection by the inhabitants of those regions.

Today perhaps, knowing that most Canadians, for a variety of reasons, are unable to pay a personal visit to what was certainly one of the turning-points of World War II, the Battle of Normandy, I want to salute the work of one organization and one individual who are doing their part to ensure that the heroism of the men and women we salute today does not slide from memory. I am referring to the Canadian Battle of Normandy Foundation, in which I know that our colleague the Speaker plays a very prominent role, and which has done an outstanding job in ensuring that the role of Canada in the Battle of Normandy is preserved for all time, principally through the memorial in Caen where, not to put too fine a point on it, the role of Canada is somewhat understated. I know that this situation is being rectified. Indeed, thanks to the efforts of the Canadian Battle of Normandy Foundation, there is now a Canadian garden in the memorial that is a most outstanding bit of recognition and testimony to the heroism of 55 years ago.

Finally, I want to signal the contribution of Professor Terry Copp, Professor of History at Wilfrid Laurier University in Waterloo. Professor Copp is the author of a number of books and articles on the role of Canadians in the liberation of Europe. For anyone intending to visit Normandy, I cannot recommend highly enough his guide to the battlefields of Normandy, which provides incredibly informative and interesting information for the traveller. Certainly Professor Copp and the Battle of Normandy Foundation, in taking students to that part of the world every year, deserve our greatest support. I guess support can be expressed in a variety of ways — not only money, although that is always welcomed by any foundation, but by following their work and supporting them in their endeavours, so that those who did so much, who made the ultimate sacrifice for us, will remain ever present in our memories and the memories of Canadians for generations to come.

[Translation]

ROUTINE PROCEEDINGS

SCRUTINY OF REGULATIONS

SIXTH REPORT OF THE STANDING JOINT COMMITTEE TABLED

Hon. Céline Hervieux-Payette: Honourable senators, I have the honour to table the sixth report of the Standing Joint Committee for the Scrutiny of Regulations on instruments administered by the Department of Indian Affairs and Northern Development.

[English]

BUDGET IMPLEMENTATION BILL, 1999

REPORT OF COMMITTEE

Hon. Terry Stratton, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 3, 1999

The Standing Senate Committee on National Finance has the honour to present its

FIFTEENTH REPORT

Your committee, to which was referred Bill C-71, An Act to implement certain provisions of the budget tabled in Parliament on February 16, 1999, has, in obedience to the Order of Reference of Wednesday, May 12, 1999, examined the said bill and now reports the same without amendment.

Respectfully submitted

TERRY STRATTON
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING Sittings OF THE SENATE

Hon. Wilfred P. Moore: Honourable senators, on behalf of Honourable Senator Milne, I give notice that, on Tuesday next, June 8, 1999, she will move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Wednesday, June 9, 1999, and at 3:30 p.m. on Wednesday, June 16, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

REVENUE CANADA

ABUSIVE AND ILLEGAL TAX COLLECTION TACTICS— NOTICE OF INQUIRY

Hon. Donald H. Oliver: Honourable senators, I give notice that, on Tuesday next, June 8, 1999, I will draw the attention of the Senate to methods by which taxpayers in Canada may be better protected from abusive and illegal collection tactics utilized by Revenue Canada, its agents and employees, by reviewing the results of a similar study of the IRS.

APPROPRIATION OF FEDERAL GOVERNMENT PENSION FUND BY TREASURY BOARD

PRESENTATION OF PETITION

Hon. Ethel Cochrane: Honourable senators, I have the honour to present a petition signed by 27 citizens of Canada, residents of Newfoundland and Labrador, who petition the following:

We, the undersigned citizens of Canada, draw the attention of the Senate to the following:

THAT on February 10, 1999, Treasury Board President Marcel Massé announced that the government would unilaterally appropriate the pension funds belonging to 670,000 current and future retirees from federal departments, Crown corporations, agencies, the military and the RCMP.

THAT this action is morally flawed because:

The pension funds are the deferred income of the employees;

Public Sector workers have accepted below market pay in return for decent pensions;

The morale of public service workers is, again, assaulted and undermined;

Therefore, on behalf of all Canadians who believe in fairness and social justice, we call upon the Senate to:

Halt the plans of Treasury Board to unilaterally appropriate the surpluses in the public service, military and RCMP pension plans;

Direct Treasury Board to end all actions which undermine the confidence and the morale of public service, armed forces and RCMP personnel.

• (1440)

QUESTION PERIOD

NATIONAL DEFENCE

PROPOSAL TO REDUCE RESERVES—POSSIBLE ELIMINATION OF THE 84TH INDEPENDENT FIELD BATTERY—GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is for the Leader of the Government in the Senate. He will know that the province of Nova Scotia has taken its fair share of

Liberal government cuts, to fisheries, to Cornwallis, to the ferry service, and the list goes on.

I have now learned that the 84th Independent Field Battery, based in Yarmouth, a reserve artillery unit, may be eliminated by the proposed military cuts. Will the minister assure the people of Southwest Nova Scotia that the 84th Independent Field Battery will not be eliminated?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am not aware of any such move. I certainly shall bring my honourable friend's representations to the attention of the Minister of National Defence

At the same time, I do not agree with the premise of the honourable senator's question with respect to cuts made to Nova Scotia. Certainly sacrifices were made by all Canadians early in the mandate. However, the result is a balanced budget that helps all areas of the country, including Senator Comeau's home province of Nova Scotia.

Senator Comeau: Honourable senators, I bring this matter to the minister's attention as there has been some talk of it. On the subject of the premise of my question, I know the minister indicated last week that we might wish to discuss this matter in the future. I would be glad to return to the subject, cut for cut, track for track, and thrash it out at that point.

Senator Graham: I would be very happy to participate in such an engagement.

CONFLICT IN YUGOSLAVIA—DEPLOYMENT OF GROUND TROOPS—NUMBER TO BE ASSIGNED—GOVERNMENT POSITION

Hon. J. Michael Forrestall: My question is for the Leader of the Government in the Senate. General Lewis Mackenzie indicated before the Standing Senate Committee on Foreign Affairs the other day that, at a minimum, to maintain our national identity, we should be sending a heavy battle group or brigade, which is directly in keeping with the 1994 white paper on national defence.

NATO has asked the Government of Canada for more troops and the Department of National Defence has given the government its options. What are these options? How many troops and from what units are we prepared to send them if they are to be required?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not believe Senator Forrestall indicated a destination for the troops. I presume he means the Balkans.

A further request has been made by NATO, as he would understand. At present we have in that area some 285 members of the Armed Forces attached to the CF-18s. We have 200 naval personnel aboard the *Athabaska*. We have agreed to deploy 800 more troops to that area. A request for more members of the Armed Forces is now under consideration by the Government of Canada.

SEARCH AND RESCUE HELICOPTER OFFSET BENEFIT PROGRAM—
POSSIBLE CONTRACTS FOR AVIATION INDUSTRY
IN NOVA SCOTIA—GOVERNMENT POSITION

Hon. J. Michael Forrestall: I hope that consideration is being given to sending a battle group or even to a somewhat lightened brigade.

Honourable senators, Atlantic Canada was promised \$43.1 million in regional and industrial benefits for the Canada search and rescue helicopter program, with over half of the aviation industry in the region expecting \$20 million to \$25 million or some 4 per cent of the revenue. To date, Nova Scotia has two proposed contracts and has received just two offsetting contracts, one for \$2.5 million and one for \$440,000. Not one red cent has gone to the aviation industry in Nova Scotia. We will be lucky to receive 2 per cent of the revenue.

What is the minister doing to ensure that the terms of that offset benefit program and the assurance given to Nova Scotia, in particular, will be followed through?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am in constant contact with the Minister of National Defence and the Minister of Industry and other colleagues. However, I am not aware of the origin of the \$43.1-million commitment to which my honourable friend refers.

I wish to assure the honourable senator that ministers and other officials are actively engaged in considering what benefits may accrue not only to Atlantic Canada but to other parts of the country as a result of new procurements which I hope will be announced in the near future.

AWARDING OF CONTRACT FOR REPLACEMENT
OF SEA KING HELICOPTERS—REQUEST FOR INFORMATION

Hon. J. Michael Forrestall: I am about to ask the minister for his most recent explanation of how long is “soon.”

As I said the other day, I welcome very much the indication that the maritime helicopter project has now been opened, although somewhat in secrecy, and I cannot for the life of me understand why. Why, for example, has there been no announcement to this effect? Why is it that we have not sent out a request for submissions from the interested firms so that we might get on with this work?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, such procurement has not been officially approved by the government. It has certainly been under consideration by defence officials and the Minister of National Defence.

With respect to secrecy, I am not aware of anything that is being done in a cloak and dagger manner, if that is the proper way to characterize the situation to which my honourable friend

alludes. However, I wish to assure Senator Forrestall that while this is very much a priority with the Minister of National Defence, there are currently other events in the world that are preoccupying the minister.

Senator Forrestall: You have to be kidding. There is nothing more important.

LABOUR

POSSIBILITY OF BACK-TO-WORK LEGISLATION
FOR AIR TRAFFIC CONTROLLERS—GOVERNMENT POSITION

Hon. Donald H. Oliver: My question is for the Leader of the Government in the Senate. Would the leader comment on the growing speculation that Parliament will shortly see draft back-to-work legislation for the air traffic controllers in the event they act on their threat and walk out?

The honourable leader will be aware that government officials have told the *National Post* that plans are underway to draft back-to-work legislation in order to keep Parliament in session past next week's expected recess in the event that a strike or lockout occurs.

Will the honourable leader tell us the current state of negotiations and when this chamber may expect such a bill?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I can only say that negotiations are continuing. We are hoping that a positive solution will be reached so that back-to-work legislation will not be necessary.

THE SENATE

DEMONSTRATION IN SUPPORT OF ABOLITION—
GOVERNMENT POSITION

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate. It appears that a group of MPs will hold a rally on Parliament Hill on June 8, 1999, for the purpose of building public support to abolish the Senate. What is the position of the Government of Canada on this rally?

Is the government prepared to tell the people of Canada about the work of the Senate? For instance, in the past eight months alone, 21 Senate committees held a total of 414 meetings, for 778 hours, heard 1,194 witnesses, and issued 79 reports.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, Senator Roche has quite eloquently responded to his own question. I believe it is incumbent upon all honourable senators to get that message, a similar message or even an enhanced message out to the public.

There is a great deal of misunderstanding in Canada regarding both the work and the role of the Senate. Again, it is incumbent upon all of us to participate in getting the message to the public.

FINANCE

EFFECT OF HIGH TAXES ON ATTRACTING NEW BUSINESSES— POSSIBILITY OF REDUCTIONS—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Last month we received yet another warning about taxes. Along with the CEO of Nortel, Canadian Pacific Chairman, Mr. David O'Brien, has said that CP may have to move some of its head office operations to the U.S. because it simply cannot attract and keep the talent that it needs, given Canadian tax levels. This follows April's statement by John Roth, Chief Executive Officer of Nortel, that his company may have to move to the U.S. because our tax laws are driving employees that his company needs to leave for the United States.

• (11450)

Why is the Minister of Finance unwilling to concede that our tax laws are contributing to a major brain drain that is just not leading to an exodus of talent, but which could also force companies that rely upon that talent to leave as well? Why is the Minister of Industry alone in recognizing that we have a problem?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the Minister of Industry is not alone in recognizing that we have a problem. Everyone in the country recognizes that we have a problem.

I think we should examine Mr. O'Brien's comments very carefully and heed what he says. He says that workers will go where salaries are higher, taxes are lower and opportunities are greater. If our industries cannot compete on a salary or opportunity basis, no amount of tax cuts will make one shred of difference.

I would reiterate that in a speech to the Finance Committee hearings on productivity, the President of the Business Council on National Issues or BCNI called our health care system a competitive advantage. He is acknowledging that by securing the future of Canada's health care system, our government is helping employees decide where to work. He suggests they should base their decisions, at least in part, on the strength of the medical system in Canada, the quality of life in Canada, and other such attributes of which we are so proud.

Senator Stratton: The question still boils down to taxes. These two chairmen talk about taxes, full stop.

According to a new Industry Canada study, Canada has a productivity gap with the United States that ranges from 4 per cent in mining to 30 per cent in manufacturing. The Minister of Industry has been very vocal and is calling for tax cuts to help make Canada a more competitive place to do

business. He realizes that we will not be able to attract foreign capital without tax relief. He realizes that our current tax regime is driving Canadians out of the country. He realizes that high taxes do not encourage investment in new machinery and equipment. When will the Minister of Finance come to the same conclusion and introduce major tax cuts that will both spur investment and end the brain drain?

Senator Graham: Honourable senators, a total of \$16.5 billion in tax cuts over the next 36 months was announced in the last budget. I believe that is a good start for a long-term tax reduction strategy.

I think we all agree that there is a need to cut taxes in Canada, but we will not do it at the expense of our health and our education systems. It was clear before the introduction of the last budget that the first priority for Canadians was an improved and a better-funded health care system.

Could there have been larger tax cuts if we had not invested \$11.5 billion in the health care system? Absolutely, but we would have been ignoring the clear wishes and needs of Canadian citizens.

HUMAN RESOURCES DEVELOPMENT

USE OF SURPLUS IN EMPLOYMENT INSURANCE FUND— GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, while the honourable leader is bragging about \$16 billion worth of tax cuts, the government is taxing Canadians \$5 billion a year more than is needed in EI premiums to balance the books. Over three years, that is \$15 billion. That is what is paying for the tax cuts.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, in the last two budgets, the Government of Canada began to implement broad-based, personal tax relief and committed to further reducing taxes for Canadians as resources permit. Canadians are looking for personal income tax cuts before other tax cuts, but we are on the right track. That is why we are able to balance the budget and create 1,600,000 new jobs in this country.

Senator Stratton: Remember, honourable senators, that the current government did not create the surplus. The people of Canada created that surplus. Anytime my honourable colleagues stands up and talks like that, I will take him on. The people of Canada made the sacrifices, and the people of Canada paid the price.

Senator Graham: I could not agree with my honourable friend more. The people of Canada created the surplus under a Liberal government, and through the responsible fiscal management which was brought to this country by this government.

INTERNATIONAL TRADE

FOREIGN PUBLISHER ADVERTISING SERVICES AGREEMENT— REQUEST FOR COPY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, could the Leader of the Government in the Senate advise this house whether he has seen a draft of the agreement that is supposed to exist between Canada and the United States with reference to the split-run magazine matter?

Hon. B. Alasdair Graham (Leader of the Government): No, honourable senators, I have not.

Senator Kinsella: Does the minister expect to see a draft copy of the agreement, or does the minister expect to wait to see a copy of the agreement when it is signed? If it is the latter, when does the minister expect that the agreement will be signed? If it is eventually signed, will the minister undertake to see that it is tabled in this house?

Senator Graham: Honourable senators. I understand that the signing is just a matter of days. As a matter of fact, perhaps it is being signed as we speak.

Senator Lynch-Staunton: Who cares?

Senator Graham: I do not claim to have any first-hand knowledge of that, but I would be very happy to table the document as soon as it becomes available.

ORDERS OF THE DAY

INCOME TAX AMENDMENTS BILL, 1998

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Callbeck, seconded by the Honourable Senator Cook, for the third reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

Hon. Terry Stratton: Honourable senators, in the 15 seconds it will likely take me to read this sentence, a further \$2,500 will be added to the accumulated surplus in the Employment Insurance Fund. While the bill before us makes some minor

income tax cuts each and every day, the EI surplus grows by \$14 million, as businesses and their employees pay far more in premiums than they need to. Put another way, each and every day the EI surplus grows by the equivalent of the cost of meeting the annual payroll of a business with 350 employees. What we now have with EI is a tax disguised as a premium, and what we have with this bill is a shell game.

Honourable senators, the minor tax relief in this bill is more than offset by unnecessarily high EI premiums. This year, EI revenues will total \$20 billion, while expenditures will only equal \$15 billion, for a total surplus on the year of \$5 billion. Add this to all the surpluses from past years, and the employment insurance account will have an accumulated surplus of just under \$26 billion by the end of this fiscal year. At that rate, it is a very safe bet that by the end of the next fiscal year, the surplus will be well over \$30 billion. This is almost certain to happen unless the government does what it has so far refused to do — bring premiums down to the level actually needed to run the program.

This bill should have a clause making it illegal to overcharge Canadians for employment insurance. By the end of next year, the overcharging since 1993 will be equal to the cost of two years' worth of benefits.

The government may boast all it wants about this bill being one of several that will make law tax cuts from its last two budgets that it claims will total some \$16 billion over three years. The problem is that it also plans to overcharge Canadians over the same period by roughly the same amount for Employment Insurance. This government is overcharging Canadians for a program that now pays benefits to only one out of three jobless Canadians. Would honourable senators voluntarily buy collision insurance from a company that only covered one crash in three? I do not think so. You would take your business elsewhere.

• (1500)

Employment insurance premiums are supposed to pay for employment insurance benefits — but not under this government. They are now a major source of revenue for the government. If the government were a business, this program would be called a profit centre.

Honourable senators, there is no question that taxes are too high, and I include sales taxes, property taxes, income taxes, probate fees, custom duties and payroll taxes. If one were to add up all the charges levied by all three levels of government one would see that they account for almost one-half of what we earn. Payroll taxes are one of the worst ways to raise money, as they bear little or no resemblance to the ability of either the employee or the employer to pay.

Before he became addicted to EI premiums, the Finance Minister thought payroll taxes were a problem. In his first budget back in February 1994, the minister told us that "payroll taxes are a barrier to jobs."

Honourable senators, this was a familiar refrain in the government's first year or so in office. Later that year, we were told in the orange book, or *Building a More Innovative Economy* as it was officially known, that "payroll taxes raise the relative cost of labour, creating a disincentive for firms to create jobs." Later in 1994, we were told in the purple book, known officially as *A New Framework for Economic Policy*, that a payroll tax "raises unemployment relative to the situation in which there is no tax or a lower tax." Finally, just before he brought down his 1997 budget, Paul Martin told a CBC town-hall meeting that "there is no doubt that when payroll taxes rise, that can have an effect on jobs."

Let us take a look at the payroll taxes that Canadians have paid since this government was elected. In 1993, a working Canadian faced combined Canada Pension Plan and EI premiums of \$5.50 for every \$100 of salary. This year, payroll taxes will take out \$6.05 for every \$100 worth of earnings. The government keeps telling us that EI premiums have fallen from \$3 per \$100 of earnings in 1993 to \$2.55 this year. They ignore the fact that premiums could drop to \$2 and still cover the cost of the program. They do not like to remind us that Canada Pension Plan premiums have jumped substantially under this government. In 1993, employees paid CPP premiums of \$2.50 per \$100 of earnings. This year they will pay \$3.50. Add it up, honourable senators, and you will find under the Liberals that combined CPP and EI premiums have jumped from \$5.50 to \$6.05 per \$100.

If the government sticks to the EI premiums assumed in the budget for planning purposes, then next year the combined premiums will be \$6.45.

There has not been one year in the six since this government took office where working Canadians have seen their payroll taxes decrease. The best year they faced of the last six was 1998 when EI premiums were reduced by exactly the amount needed to offset rising CPP premiums — no gain for the taxpayer and only one year in six when there was no additional pain.

These premiums come out of the pockets of working Canadians. The EI actuary tells us that at least 55 cents of that money is not needed. Premiums could be cut back to \$2 and the program could still be run in the black. This government is taking more than \$200 per year out of the pocket of someone earning an average wage.

Then, honourable senators, there are the payroll taxes paid by employers. For employers, combined CPP and EI premiums have climbed from \$6.70 to \$7.07 per \$100 of earnings. Business taxes can only be paid in one of three ways.

First, they can be reflected in lower profits. In the case of the small business operator, this results in less money for his or her family at the end of the year. In the case of larger businesses, this is reflected in lower earnings, which means less money to reinvest and lower returns to shareholders. The days are long gone when only the wealthiest Canadians were shareholders. Today, equity markets affect more ordinary Canadians than ever, thanks to the growth of retirement savings and pension plans.

Business taxes are increasingly becoming taxes on retirement savings.

Second, business taxes, including payroll taxes like EI and the CPP, can be reflected as higher prices, if the business can pass them on.

Third, payroll taxes can translate into lower wages and fewer jobs, if the business is in a position to dictate wages, or if hard decisions must be made about payroll costs.

Honourable senators, the government's refusal to lower premiums is, frankly, a bit surprising, given the way it allows polls to drive its agenda. On February 20, the *National Post* reported the results of a Compas poll on Employment Insurance. It said that as many as 71 per cent of Canadians believe the federal government should only collect as much money as it needs to run the program.

The *Kitchener-Waterloo Record* noted in an editorial last December 3 that:

Finance Minister Paul Martin may understand politics but he has real trouble understanding words such as employment, insurance and premiums.

No other conclusion could be reached after Martin refused this week to lower Employment Insurance Premiums to a level that would be actuarially sound, neither too high nor too low to get us through the next recession.

Honourable senators, after a few paragraphs outlining break-even premium rates, the editorial continues:

What Martin is really saying is that the premiums are not premiums at all, they are just another tax. This concept of unemployment insurance premiums would have surprised federal officials when Ottawa formally took over constitutional responsibility for Unemployment Insurance in 1940. They thought they were going to run an insurance plan.

The Toronto Sun noted in an editorial on the same day that:

If Martin isn't listening to taxpayers, isn't listening to business and isn't listening to his own actuary, what possible basis does he have for taking so much of our money?

None, except politics. Martin says he hopes to keep cutting EI premiums "every year." In other words, right up to the next election.

Right. He'll have nickel-and-dimed us all to death by then.

I will leave the final word on this subject to a publication that has long been known for its unwavering support of the Liberal Party. My apologies in advance to the interpreters, who I hope can do justice to what follows.

Last December 3, *The Toronto Star* stated in an editorial:

The Chrétien government made a mistake when it changed the name of Unemployment Insurance.

Rather than calling it Employment Insurance, Ottawa should have named it the Liberal About Face Fund, or LAFF.

Even though Finance Minister Paul Martin is collecting \$7 billion a year more in premiums than is needed to pay for jobless benefits, he had decided to reduce contributions next year by only one-seventh of that amount.

Better than nothing, he'll say with a LAFF.

Honourable senators, a few paragraphs later, the editorial concludes by stating:

With so much funny paper, Martin's budget will doubtless be a barrel of LAFFs.

Lastly, honourable senators, there is nothing funny about this government's failure to bring both meaningful, broad-based tax relief and employment insurance premiums down to the level actually needed to run the program.

This bill is simply not good enough.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to make a few observations on Bill C-72. The focus of my remarks relates to students who are either in our universities or who have left with an indebtedness that would frighten any member of this chamber, I am sure.

• (1510)

Although budget documents in the past have contained measures such as the Millennium Scholarship Fund, they have not effectively responded to the concerns of students who have completed university, community college or other programs and are left with enormous debt. We must face up to that indebtedness. Students whom I have personally had the privilege of teaching have been indebted in the range of \$30,000 to \$40,000.

Often, students who meet on campus during the course of their studies fall in love, marry, and want to begin a family. Suddenly, they are faced with \$60,000 of indebtedness. If we had started our careers with a \$60,000 debt, how quickly would we have entered the housing market? This is a national problem, created by methods for financing education that have evolved over the years.

A number of the measures in the budget address problems of accessibility. There remains grave concern in the university and college community across Canada. We must assess the core funding of these institutions in terms of our national educational objectives. We must also examine the indebtedness that the current system imposes on young people trying to prepare themselves for the 21st century.

The programs that have been announced to reduce loan principal, for example, do not do much to help Canadian students who, having completed their programs of study, are harnessed with horrendous debt. The only group being helped by the indebtedness of this community of Canadians is the financial institutions.

We must find creative solutions to this problem. Perhaps the government should consider rolling together first entry into the housing market and student indebtedness. For example, if a first entry into the housing market requires a \$100,000 mortgage and that student has indebtedness of \$30,000, perhaps the answer is a \$130,000 mortgage, insured the way the Canada Mortgage and Housing Corporation insures mortgages, so that the student would be able to pay off student debt and mortgage with one monthly payment. That is but one idea that might attract the interest of the government. We need creative solutions to deal with the problem of indebtedness.

Honourable senators, a great number of students across Canada are expecting to obtain a post-secondary education. That expectation is held not only by individual students but also by Canadian society as a whole, as we enter the 21st century. There is a common good to be achieved if our students become the best technologists and academics in our global village.

In order for our students to be able to study and achieve excellence, we must provide them with the necessary financial resources. In Canada, responsibility for funding post-secondary education has traditionally been shared among parents, students and, to a significant extent, provincial and federal governments.

Since 1980, tuition fees in Canada have increased by 115 per cent, whereas inflation-adjusted family income has increased by only 1 per cent. Increases in tuition fees have been mammoth. The social consequences of that tremendous burden will be felt in the housing market. As we all know, the economy is very active when there is a thriving housing market.

Government loans are one way in which governments invest in the future of students. Student loans provide indispensable financial assistance to 80 per cent of Canadian university students. These loans are not risk-free. The level of student indebtedness is increasingly cause for concern and may be creating serious problems for borrowers and Canadian society.

• (1520)

Average indebtedness among students obtaining a first degree in 1982 was \$5,260. In 1998, this figure had risen to over \$25,000. The 1998 winter edition of Statistics Canada's "Canadian Social Trends" included the 1995 national graduate survey of 43,000 students in professional, university and college training programs. That survey indicated that, among 1995 graduates from college or first-degree programs, inflation-adjusted government student loan indebtedness was between 130 per cent and 140 per cent higher than for the class of 1982. This is a very serious problem, and one that is affecting the fabric of Canadian society economically, socially and culturally.

The Statistics Canada data also indicates that, two years after graduation, 1995 graduates from college and first degree programs had repaid a smaller proportion of their loans than had the class of 1990. For example, by 1997, the 1995 graduates had repaid only 19 per cent of their loans, while the 1990 graduates had repaid 35 per cent. That indicates that the more recent graduates, with the bigger indebtedness, are finding it tougher to repay.

Similarly, 1995 graduates from first degree programs have repaid only 17 per cent of their loans, in comparison with 27 per cent for the class of 1990. These figures mean that the 1995 graduates will certainly need more time than did classes of previous years to repay their loans.

Honourable senators, I submit once again that the government must come up with some very creative and innovative programs for these Canadians, who wish to have the best education they can achieve and are being encouraged, if not pushed, by society, which wants them to be the best and the brightest. Through no fault of their own, and because of the system for the financing of post-secondary education, we have harnessed them, chained them, fettered them to a financial burden that no one in this chamber would wish to have hanging around their neck. Creativity throughout all branches of government, and federal-provincial meetings that address this issue of indebtedness must be the order of the day.

Honourable senators, I have established that growing student indebtedness in Canada is worrisome, if not a national crisis. If nothing is done to remedy the situation over the next few years, the prospect of heavy indebtedness could discourage more and more students from entering post-secondary education programs, or force them to drop out before they complete their studies. It could also influence a graduate's plans to buy a house, which is the example I gave a few moments ago, or furniture or, in a society which demands that we be mobile, the expense of an automobile. If you have a \$30,000 debt, how quick are you likely to go out and buy a car? How quick are you likely to go out and buy furniture? The system has led to a fettering of these generations of young Canadians who provide the demand that fires the economy in terms of the supply.

The situation, honourable senators, is potentially subject to aggravation by the fact that students may see their prospects of finding a job soon after graduation an impediment in itself. That is to say, in my province, there has been a great deal of job creation. The job creation, particularly in the small centres, has been in minimum wage types of jobs. The Canadians I am speaking of, those who have invested in technological or other academic areas and are harnessed with an indebtedness of \$30,000 to \$40,000, cannot take a job at minimum wage and expect to pay off their student loan.

Consequently, a number of graduates, particularly in the high-tech fields and a number of academic fields, have responded in what way? They have left Canada. That does not make sense. If we are investing in students' education, both

federally and provincially, through the infrastructure of our institutions, plus through investment in the various support programs, plus through loan programs, Canadians and Canadian society are losing the benefit of those investments. In most cases, it is the United States and its economy that is benefitting. That does not make much sense. That speaks to the issue of our burdensome tax system and our system of financing higher education.

In my opinion, the tax measures of this government will do nothing to relieve student indebtedness in Canada, at least nothing that I have seen presented to us. There has been very little creativity, and that is the challenge. This sobering fact is unworthy of us as a country, where access to education is accepted by each and every one of us as a universal value, and it is a value which must be fulfilled. It is a programmatic right.

Hon. P. Derek Lewis (Acting Speaker): Senator Kinsella, I am sorry to have to advise you that your time has expired, unless you wish to ask for leave to continue.

Senator Kinsella: No, I will stop.

On motion of Senator Kinsella, for Senator Meighen, debate adjourned.

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the second reading of Bill C-78, to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act.

Hon. Terry Stratton: Honourable senators, Bill C-78 essentially does three things; all without the consent of the members of the pension plans of the public service, the RCMP and the military.

First, it allows the federal government to take as its own the entire \$30-billion surplus that has been accumulated in these three pension plans. This was the primary focus of the debate on this bill in the other place.

Second, it changes the way those pension plans operate, mainly by allowing the funds to be invested in the market-place by the investment board which will be created through this bill.

Honourable senators, the accountability regime set out for that board is surprisingly weak. One would have expected something better from the Treasury Board, of all departments.

The Public Sector Pension Investment Board is modelled on the CPP Investment Board. It would appear that the government has ignored the recommendations for changes to that board made by the Senate Banking Committee.

• (1530)

Third, it makes a number of changes to the plans themselves, in areas such as funding and coverage.

My remarks this afternoon will primarily concern the way the government has treated the public service. I believe that Senator Tkachuk will speak later to issues of accountability and pension plan governance.

Honourable senators, the first and most controversial issue surrounding Bill C-78 is the government's decision to take back the \$30-billion surplus that these three plans have accumulated.

The government tells us that it has a legal right to claim the entire amount on behalf of the taxpayers of Canada. We are told that this is appropriate, since the government is responsible for any deficits in the plan and, indeed, has met such deficits in the past. However, those with an interest in this surplus, the retirees and the unions speaking on behalf of the employees, tell us that, if the government already had a legal right to the surplus, it would not need legislation to claim it.

Honourable senators, they challenge the government's assertion that it has ever met such a deficit, on the basis that the government simply wiped out the accounting deficit that arose in the mid-1980s by using an offsetting interest-income surplus. No direct extra contributions were ever made, we are told.

It must be remembered that in 1982 the Liberal government of the day rolled back inflation-related increases in public service pensions as part of a public relations exercise known as the "Six and Five" program.

What assurances do we have that the government, having stripped the surplus, will not reduce benefits or further increase premiums, should the plan run a deficit? Indeed, it could create a surplus any time it wants by reducing benefits.

Unlike private sector employers, the government can change the rules of the pension plan any time it wants to do so simply by passing a bill.

Indeed, honourable senators, in speaking to the second reading of the bill, which imposed the "Six and Five" program on the public service pensions, Senator Olson, then Leader of the Government, told us at page 5279 of Hansard of January 26, 1983, that:

Changes can be made to the relevant legislation to reflect varying economic conditions.

Economic conditions are always varying. Interest rates are up, and then they are down. Inflation is up, and then it is down. The stock market is up, and then it is down. It is the same with the bond market.

Honourable senators, if the government were subject to the same pension laws as the private sector, it would have no legal basis on which to claim the full surplus. In fact, it would need the permission of two-thirds of plan members to do anything with that surplus. It was only last year that we made the law for private sector plans that fall under federal legislation, when we passed Bill S-3.

The government keeps telling us that nowhere in the public sector is there a case where employees share in the surpluses but not in plan deficits. Private sector employers are responsible for meeting plan deficits, but they cannot touch the surpluses unless they come to some kind of sharing agreement with the employees. However, this government does not subject itself to the same laws that apply to the private sector. There is a double standard.

We are being warned that this could prompt other employers to seek changes to the Pension Benefits Standards Act that would allow them to take the surplus out of their own defined benefit plans, without the need to seek consent of their employees. I am not sure how the government will be able to look them in the eye and say "No" after changing the rules for itself.

The retirees and the unions tell us that the only reason that there is a \$30-billion surplus is that the premiums over the last few years were set too high. Too much has been contributed to the fund. One reason that they were set too high is that wages did not rise as fast as expected. For example, as a result of a six-year wage freeze, the pensions of new retirees are lower than the actuaries thought they would be.

The retirees and the unions would prefer that the surplus be used to improve benefits or to forestall the anticipated premium increases that will occur over the next several years. Combined with those of the Canada and the Quebec Pension Plans, these premiums, currently 7.5 per cent of salary, could hit 11 per cent by the year 2010.

I am not sure how attractive the public service will be to young Canadians given the combination of an 11 per cent pension charge and wages that have fallen well below those of the private sector. Nor will this help the government meet the challenge of retaining its existing employees, many of whom are already taking their skills to better-paid jobs elsewhere.

We are told, in the words of a petition to Parliament currently being circulated by the Public Service Alliance, that:

This action is morally flawed because:

The pension funds are the deferred income of employees;

Public sector workers have accepted below market pay in return for decent pensions; and

The morale of public sector workers is, again, assaulted and undermined.

Honourable senators, the \$30-billion surplus question has been the most controversial issue, but it is not the only issue. Indeed, there are a number of other substantive issues, such as joint management of the plan and how the board will be governed. Many of these issues stem from the process leading up to this bill.

The government is proceeding with major changes to its pension plans without the agreement of its employees. Discussions with the public service unions on changes to the plan failed to lead to an agreement, with talks breaking down over the pension surplus issue.

The war of words we now see reflects a very bad labour relations climate. For example, *The Ottawa Citizen* of April 26 tells us:

Treasury Board President Marcel Massé accuses "the unions of deliberately scuttling a deal negotiated last January, for a new jointly managed pension plan because they, 'didn't want to take the heat' from their members for giving up the surplus in the old plan."

Honourable senators, the same article has Steve Hindle, president of the Professional Institute of the Public Service of Canada, responding:

We didn't walk from that table to avoid the heat. This is about an equitable distribution of the surplus and giving up \$30 billion to the government was not a deal for us.

Honourable senators, pension lawyer Fiona Campbell said in the May 3 *Ottawa Citizen* that:

This bill is unprecedented. I'm not aware of pension legislation of this magnitude in both what it's trying to do and in how quickly it's being done with no input from the people affected.

Honourable senators, even if you accept the government's arguments that the unions scuttled a deal, you must remember that this bill applies to more than just the public service. It also applies to the RCMP and to the military.

In testimony before the Government Operations and Natural Resources Committee in the other place on May 4, Mr. Kevin MacDougall from the RCMP Divisional Staff Relations said at a pension advisory meeting in November:

We were told that nothing would happen to the RCMP plan unless a full consultation was given.

Honourable senators, after stopping briefly to answer a question, Mr. MacDougall continued. He said:

We were told on January 21 that the legislation was drafted and we would be given absolutely no opportunity to input. As a result of that, we had various meetings with senior management and they also informed, in fact confirmed in writing yesterday, that they, as senior management of the RCMP, had been given no opportunity to input. In fact, there has been no "meaningful consultation with senior management as well."

Now how does that look to the members of the RCMP? Our members are from coast to coast, we work hard out there, pensions are very, very important to police officers yet the government is signalling changes, it's about to make changes, dramatic changes to our act, and they haven't even consulted with, not only the representatives of the members, but they haven't provided any meaningful consultation with senior management.

• (1540)

Mr. MacDougall then went on, on behalf of his members, to ask that the parts of the bill dealing with the RCMP be put aside so that they could have time to provide some input.

In committee, I would like government witnesses to respond to Mr. MacDougall's testimony. I would like to hear a satisfactory explanation as to why the government made a promise to consult the RCMP in November, and then broke it in January.

I would like a satisfactory explanation as to why the government failed to include representatives of the RCMP and the military in its discussions, and why they are being punished for the breakdown in talks with the public service unions.

Honourable senators, for couples who are not legally married, Bill C-78 introduces a new definition of "spouse" based on conjugal relationship, in place of the opposite-sex, common-law concept we now have. The courts have said that the survivor benefits now provided to common-law heterosexual couples must also be extended to same-sex couples.

I want to be careful in raising this subject, as I do not want to detract from my main message of fairness, process and accountability by inviting a headline that reads, "Senator rants against same-sex benefits." This is not a rant against anything. What I want to do is draw the Senate's attention to the fact that arguments have been advanced that, as presently worded, Bill C-78 could end up creating yet another round of work for the legal community. These further problems concern not the bill's intent but the bill's wording.

For example, the Federal Superannuates National Association, in testimony before the other place, noted a problem, in that the final decision on whether there is a conjugal relationship rests with the minister — I wonder how honourable senators would like that decided for them by a minister — with no right for the survivor to present his or her case and with no process of appeal spelled out in law. In committee, we may want to examine this, and to see whether there are ways in which to manage the application process that do not deny fair process.

It is not hard to see some lawyer arguing, somewhere in the country, that, since the conjugal-relations rule does not apply to formally married couples, it ought not to apply to common-law married couples.

I am also told that the bill as drafted may present problems for common-law couples who at some point cease to have conjugal relations for reasons of health or who cease to cohabit because they have been placed in separate nursing homes. Concerns have also been raised about how the bill treats pensioners who remarry.

These matters were raised in committee in the other place a month ago, yet the government's initial response was to shrug its shoulders and to say that it is the best we can do. I would hope that in the intervening month — a short time now — the government has taken a second look at these concerns and will either be able to provide factual assurances that there are no problems or to offer amendments to deal with them. Otherwise, I very much fear that this bill will turn into a job-creation program for Department of Justice lawyers and other lawyers across the country.

In closing, honourable senators, I want to say that I am more than a little concerned about the state of labour-management relations in the public service. This bill will not help. It will just extend the present problems and create further and greater ones.

This marks the third time this spring that the government has asked the Senate to ignore the very strongly voiced concerns of its employees. The two other cases were the Revenue Canada Agency Bill and the imposed settlement set out in the blue-collar back-to-work bill. I hope this is the last time.

Hon. David Tkachuk: Honourable senators, Senator Stratton has already outlined the issues concerning the government decision to dip into the pension plans of its employees. Senator Stratton and I are sharing the obligations on this bill. It is such a bad bill that he ran out of negative adjectives to use. Knowing my propensity for negative adjectives with regard to the Liberal government, he asked me to assist him and take the other half of the bill. I can assure him that, after reading the bill, I am pleased to be able to do so, because this bill has bad concepts, bad principles, and it writes bad law.

Senator Kinsella: There is nothing good in it?

Senator Tkachuk: That is right. I could not find anything good in this bill. It is such bad law that the courts will be making the law for us, rather than, as it should be, the other way around.

Today I will address the issues of governance and accountability that arise from Bill C-78.

Honourable senators, the original plan was for a pension investment board that would report to a joint management board. If the investment board created by this bill were jointly managed by the employer and the employees, then issues such as who should audit the plan would be less relevant because both sides would bear the costs of bad decisions. The unions and the retirees want to be represented on the board. They fear that their participation in the advisory committees that will select the nominating committees that will put forward names to the minister will be meaningless.

We have heard this before concerning the CPP plan.

James Baglow of the Public Service Alliance noted the following in an April 16 press release:

Is this government afraid that if there is a joint union management board they will have to give consideration to the people to whom the money belongs—the retirees and the workers?

The deficit has already been fought on the backs of these workers and former workers. They have endured frozen wages for more than six years, massive job cuts through direct layoffs or privatization and continuous delays in the implementation of pay equity.

Now they are watching their employer, the federal government, bring in legislation that would deny them any say in their future.

Honourable senators, the government's answer is that the bargaining agents walked away from the agreement that would have given them representation. The unions were not willing to give up the surplus in exchange for representation on the board, so, as far as the government is concerned, they can forget about both the surplus and the joint board. They can have neither.

What kind of an attitude is that on the part of the government? Is it any wonder that labour-management relations in the federal public service are in such a mess? Is it any wonder that morale is so low?

What of the RCMP and the military? Why are they to become casualties of the government's war on the public service?

Honourable senators, the bill as drafted does not even allow the option of a joint management agreement in the future. Bill C-78 even forbids anyone either now receiving a pension or entitled to a future pension from sitting on the board of directors.

In committee, I would like the President of the Treasury Board to explain why the government did not even have the door open to an eventual agreement.

What rules should apply to a board that is not jointly managed? What should be the qualifications of its directors? What is an appropriate level of transparency? Have we not heard all these questions before?

Honourable senators, let me cite an example of why we should be asking ourselves these kinds of questions. Bill C-78 sets up a complicated process for nominating directors, where advisory committees select a nominating committee, which, in turn, puts forward names to the minister, who, in turn, takes his or her own choice of names from that list to cabinet. Presumably, this is to make it harder to appoint someone from, say, the Hull-Aylmer Liberal Association or the Assiniboia-Gravelbourg Liberal Association to the board of directors. I do not think so. The only guideline, according to clause 10 of the bill, is that the nominating committee have regard to:

...the desirability of having on the board of directors a sufficient number of directors with proven financial ability or relevant work experience such that the Board will be able to effectively achieve its objectives.

Honourable senators, we all qualify.

• (1550)

Bill C-2, the legislation setting up the Canada Pension Plan Investment Board, had a similar clause, and this gave rise to concern that it opened the door to the appointment of a board that lacked the necessary skills to carry out their duties. Can someone opposite tell us what constitutes a "sufficient number," and can someone opposite define "proven financial ability"? As currently worded, the end result of this bill could be a board where no one knows the first thing about pension fund management or about such basic matters as what an actuary is or what an auditor is. Indeed, given that the guidelines are expressed only in terms of "desirability," the board could also end up having no members with proven financial ability. When investment managers start to talk about risk management, derivatives, valuations and IPOs, my guess is that, for most of them, their eyes will glaze over.

In its study of the Canada Pension Plan Investment Board last year, after listening to experts in the field of pension and board governance, the Senate Banking Committee recommended that:

Directors of the Canada Pension Plan Investment Board, collectively, have a broad range of experience and expertise. While the benefits of appointing directors with proven financial ability are clear, the Committee believes that a majority of directors should have expertise in pension fund management and other relevant skills.

Honourable senators, the government would have done well to keep that recommendation in mind when it drafted this bill.

We may also want to have a close look at the investment regime for this bill. Within two decades, this fund will become one of the largest in the country, with investments in excess of \$100 billion. To put this in perspective, excluding blocks that never trade, the capitalization of the TSE is \$650 billion. The board's investment decisions will have a major impact on individual share prices.

We were extremely concerned about that when the government set up the CPP board. Now we will have two boards, both based here in Ottawa. That is in another part of the bill. The headquarters must be in Ottawa. They will have a tremendous impact on the financial markets in this country.

We are told that allowing pension funds to be invested in the market-place will increase the investment income of these funds and thus reduce the premiums needed to pay for public sector pensions. It is amazing how they are interested in the premiums of the workers and how much they have to pay towards the sectors, while at the same time they are taking \$30 billion that they could use to reduce premiums and putting it into the Consolidated Revenue Fund.

In clause 50, the government even retains the power through Order in Council to determine what percentage of their investments are to be placed in Government of Canada bonds. We will have a board at arm's length except when we tell it where to invest. It also has the power to set a time period during which it may only invest in broad market indices.

The President of the Treasury Board will need to tell us why it is appropriate to force the fund to invest one nickel in federal government bonds, given that employees, who have no say in the fund's management, pay for lower returns to the tune of 40 cents on the dollar. Provincial bonds usually have greater returns.

Has any thought been given to how long it would be appropriate for this arm's-length board to invest in broad market indices, or for that matter whether it would be an appropriate longer-term strategy?

The bill requires that the board establish an investment committee, and it gives no direction as to whether investment ought to be passively or actively invested.

We are told that the board is to maximize returns without undue risk. Can someone opposite tell us what constitutes "undue risk"?

Clause 50 also gives the cabinet extensive regulatory powers in the area of derivatives. Derivatives are fairly complicated. If the cabinet is responsible for this bill, I would hate to think that they will be giving advice on derivatives. Should that not be the subject of parliamentary scrutiny?

The legislation gives the board power to establish investment policies and standards that a person of ordinary prudence would exercise in dealing with the property of others. Should the standard for a professional board managing a portfolio of more than \$100 billion not be a bit stronger than "ordinary"?

The RCMP has tremendous investment concerns in this bill. Kevin MacDougall from the RCMP Divisional Staff brought to the attention of the Government Operations and Natural Resource Committee in the other place, on May 4, the following concerns. He said:

We were called in as the national police force to investigate the Bre-X alleged fraud and we wonder how we could possibly do that if we had millions of dollars in Bre-X itself. It would be alleged, certainly, by some of the people, the owners of Bre-X, and the directors, that we were in a conflict and couldn't investigate it.

Mr. MacDougall went on to cite another example, that of when the RCMP were called upon to allow replacement workers to cross a picket line at a Maple Leaf plant.

If they knew that we had investments in Maple Leaf foods, then certainly these workers would have a right to be upset thinking that we were either too aggressive or whatever, so we think that that could potentially pose a problem for us and requires more scrutiny.

Another issue that the committee ought to look at is the lack of a clear link between premiums and the actuary's report. The creation of a \$25-billion surplus in the EI fund shows us what can happen when governments get overly prudent and ignore what their actuaries tell them.

Premiums will rise to the point where they represent 40 per cent of plan costs, yet the bill does not specify that this 40 per cent ratio is to be based on a premium recommended by the actuary. Instead, the bill says that it is the minister's call, after reading the actuary's report, as to how much needs to be contributed to the plan.

On more than one occasion, this government has used accounting tricks to juggle its deficits between years, some of them proper in the eyes of the Auditor General and some of them not. At the same time, we have seen the government ignore the EI actuary's report on the level of premiums needed to keep the program in the black, with the result that inflated premiums have lead to a \$25-billion EI surplus. The minister, in the first day of a new mandate, claiming to be prudent, could decide that the pension plan needs \$1 billion more per year than the actuary says it does. Three years later he could have a \$3-billion surplus available to spend.

For that matter, it must be remembered that this plan will have the same actuary as the Canada Pension Plan. Serious allegations remain outstanding, as honourable senators will remember, to the effect that the government attempted to interfere in the most recent actuarial review of the CPP so as to the keep the premiums below 10 per cent. The same kind of optimistic economic assumptions that would lead the chief actuary to conclude that CPP premiums need not rise could also lead him to conclude that the Public Service Pension Plan had a bigger surplus than previously thought.

Honourable senators, there has been a debate in the past as to whether or not the Auditor General ought to be the auditor for a fund such as this. He ought to be, but the government has decided that he will not be. That is what happens when we take a government agency and we say, "Oh, it is at arm's length." What we mean by that is "away from the control of Parliament."

We must remember how we select the board of directors. We select them by a little committee here, a little committee there, all chosen by ministers. The minister himself decides who is on the board of directors, usually friends of the party. "Hello, Mabel; Hello, Terry." Things can get done that way, but Parliament has no access to Mabel and Terry.

Senator Kinsella: Why are you naming people from our side?

Senator Tkachuk: I am hoping that after the next election we will be naming some from our side.

The problem here is that we are trying to use private sector public board principles to government agencies, and you cannot do that. We have a situation where the board will appoint its own auditor, much like we have with the CPP.

• (1600)

How can a board appoint its own auditor when that auditor is auditing the board and the management of the pension plan? In a public company, the shareholders appoint the auditor. The board cannot fire the auditor, only the shareholders can fire the auditor. That is not so here and not under the CPP plan.

The minister representing the Crown could appoint the auditor. At least the minister is representing the shareholders. We urged such recommendations in regard to the CPP board, in order that the minister would then be responsible to Parliament.

However, in this case, these people are responsible to no one, because no one elects them. The retirees using the pension plan have no representation on the board of directors. Therefore, the users of the money have no responsibility whatsoever.

The shareholders seem to have no responsibility. The only people who have responsibility are the board of directors, who the minister names, and they name auditors to check on themselves. If they do not like what he says, they can fire him.

The Hon. the Acting Speaker: Honourable senator, I regret to inform you that your time has expired. Are you requesting leave to continue?

Senator Tkachuk: I would request leave to continue, honourable senators.

The Hon. the Acting Speaker: Honourable senators, is it agreed that Senator Tkachuk be granted leave to continue?

Hon. Senators: Agreed.

Senator Tkachuk: Thank you, honourable senators.

Honourable senators, it is too easy to have the board of directors remove their own auditor. It is also irresponsible. As parliamentarians, we should not let that happen.

This bill is cloaked in secrecy. There is no access to information. They hire their own board, they hire their own auditor. There is no responsibility to anyone. The organization does not even have responsibility to Parliament.

There is no way to examine administrative fees. The government used to pick up the cost of administration.

At present, the pension plan has \$130 billion in it. The government is planning to take back \$30 billion, which leaves \$100 billion for actuarial purposes. The government is just taking the surplus. That is a great deal of cash. The government will bill that amount back. However, it will be billed back with no clear legal requirement that such charges are reasonable; nor is it specified what can or cannot be charged to the fund. For example, if the minister's office hires consultants to prepare notes for Question Period regarding the pension fund, he or she could bill that back to the fund.

There is no control on the administrative fees charged. There is no control of the auditor. If I were representing the public service union, or if I were a retiree, I would be very concerned about this bill.

Given the haste with which the government is pushing this bill, the amount of funds to be invested, and that the bill has been presented without the consent of those affected, surely the least we can do is to demand that the bill be re-examined in three years' time. The consultative mechanisms outlined in this bill may not go far enough to ensure that that will happen. I know that will not happen.

While the board must meet once a year with the three advisory committees to discuss the annual report, there is no requirement that other subjects be discussed. While the advisory committee may make recommendations on various aspects of the plan, the government is under no obligation to respond to these recommendations.

Honourable senators, I have outlined several matters that should be reviewed by the committee. These are important matters. As can be seen with the CPP board, the parks agency and the national revenue agency, this government has a habit of moving things away from Parliament into quasi-judicial, semi-corporate, never-never land.

People in the other place do not object as strenuously as they should. People should be on strike over these matters.

Two members of Parliament from the other place continue to talk about how they should abolish the Senate. While they talk

about us, the government is abolishing the powers of the other place.

Therefore, I ask senators to examine this bill carefully. Hopefully, we shall defeat it when it comes back for third reading.

The Hon. the Acting Speaker: If no other honourable senator wishes to speak on this matter, I will put the motion. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[Translation]

CANADA TRAVELLING EXHIBITION INDEMNIFICATION BILL

SECOND READING

On the order:

Resuming debate on the motion by the Honourable Senator Poy, seconded by the Honourable Senator Mahovlich, for the second reading of Bill C-64, to establish an indemnification program for travelling exhibitions.

Hon. Jean-Claude Rivest: Honourable senators, Bill C-64 will not fundamentally change the description of Canadian society. It is of importance in a very limited area and is of considerable significance in the development of Canada's culture. It pertains to the area of museums and the assistance the government must provide to this form of cultural expression. When we talk about museums we think of Montreal, Toronto and Vancouver, but there are a considerable number of individual museums of significant interest in terms of their cultural expression of Canadian and regional realities.

With respect to this bill, we must underscore the importance of museum activities in our communities, regions and major centres and recognize the value of this activity and the people involved to the affirmation of Canada's cultural identity.

The context of this bill is a bit odd, in that we are watching the play bit by bit. After the Liberal Party of Canada worked unfairly and often rough shod to destroy the policies of the government of Brian Mulroney, we are now seeing a return of the policies the Conservative government had proposed for the benefit of all Canadians.

The Leader of the Opposition pointed out today rather clearly, on the occasion of the anniversary of NAFTA, just how far the Liberal government in its day-to-day actions, contradicts the commitments and speeches it made during the election campaign in which it fought the Conservative Party.

This bill is a small example among many. In the area of museums, when the Conservative Party left power, Canadian government aid had reached some \$15 million a year.

Then along comes the Liberal Party of Canada, which reduces or cuts the assistance to museums down to an absolutely ridiculous level. Now, gradually, with a somewhat belated awareness of the value and merits of the policies of the previous Conservative government, they are restoring not only the direct assistance to museums but also one of the measures introduced by the Mulroney government in the late 1980s, guarantees on the level of insurance the museums are required to have in order for exhibits to circulate among the museums in Canada. This was an important and significant cultural policy of the former government, one which the Liberals had purely and simply done away with when they came to power.

Now, with a somewhat belated understanding, too late some would say, of the policy adopted by the Mulroney government, the present government is following the same path and beginning to correct its mistakes by reproducing exactly what the former Conservative government proposed in the way of assistance to museums all across Canada.

These policies, of course, have a Liberal flavour now, and so they are only half as generous as the Conservative ones, but at least they are a step in the right direction. Is it not somewhat odd to see such a thing happen, probably a first in Canadian political history? If this were a one-time thing, we could easily forgive our Liberal friends by saying that they are correcting a mistake they made. But this is an increasingly general attitude, not only limited to Mulroney government bills or initiatives, such as may be found in the Senate.

Today's government is simply picking up and glorifying in a most dynamic manner the actions the Mulroney government took on behalf of all Canadians in the area of economics, which have led to the creation of thousands of jobs thanks to NAFTA. The government today is copying those initiatives, glorifying what it tore down in the past. What a waste of time for Canadians, returning to former policies it had a hand in destroying by denigrating them.

What a lack of imagination on the part of this government, which has simply copied the praiseworthy initiatives undertaken by the Conservative government for all Canadians. I do not want to insist or appear outrageous. I have another specific experience, which will be celebrated over the summer. When Prime Minister Mulroney signed the agreement between the Governments of Canada, Quebec and New Brunswick to permit the Governments of Quebec and New Brunswick to take part in the Sommet de la francophonie, according to our friends opposite, it was a sacrilege against the unique character of Canada's foreign personality. Acadians and francophone Quebecers could not be allowed to take part directly in the Francophone countries' summit.

Today, what are our good Liberal friends doing? They will be heading to Moncton during the summer to celebrate one of the great achievements, once again, of the Mulroney government.

On the subject of museums, the government is proposing a bill that is similar to the one introduced by the previous government. It comes back with a program to help museums obtain insurance in the event of loss or damage. Once again, we must be patient and continue to push our Liberal friends. They are incapable of being as generous as the former government, since their bill will provide help for museums with insurance at simply half the level established by the Conservative government.

Honourable senators, since the Liberals are now taking this approach, since they have begun to understand that the basic policies of the Conservative Party were good, progressive and in the interest of Canadians, we can only rejoice. Canadians, however, are not fools. If they are going to have policy established according to the directives and interests of the Conservative Party, in the next elections, instead of electing a pale copy of the Conservatives, they will vote for the Progressive Conservative Party.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Poy, seconded by the Honourable Senator Mahovlich, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to, and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Poy, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

[English]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Maloney, for the second reading of Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I move that this order stand in the name of Senator LeBreton.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Order stands.

[Translation]

BANK ACT WINDING-UP AND RESTRUCTURING ACT

BILL TO AMEND—SECOND READING

On the Order:

Second reading of Bill C-67, An Act to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts.

Hon. Céline Hervieux-Payette: Honourable senators, I am happy, probably too happy in fact, to state my support for Bill C-67, which we are considering today and which is intended to permit foreign banks to establish in Canada certain types of branches with activities geared to the commercial sector.

The proposed system should increase competition in the Canadian banking sector by encouraging the healthy presence of foreign banks. It should help increase sources of financing available to large, medium-sized and small Canadian enterprises, as well as the choice of certain types of consumer loans.

Allowing the establishment of such branches will lead to stronger competition because it will be more profitable for many foreign banks to open Canadian branches than to create separate subsidiaries, as required by the existing regulations.

A branch could obtain capital from the bank's head office for its loan activities here in Canada, while a subsidiary, as a separate entity, must come up with its own capital for that purpose.

Forcing foreign banks to operate through subsidiaries is a pointless regulatory barrier for banks wishing to provide services in Canada.

We are the only G-8 country that does not allow such branches. The time has come to review our regulatory requirements and bring them into line with those of our principal trading partners.

This is an important change; I would even call it necessary. Many foreign banks have eliminated or cut back on their activities in Canada. In 1987, there were a record 59 subsidiaries of foreign banks in Canada; by the end of last year, there were only 45.

The provisions in Bill C-67 for establishing branches are the result of exhaustive consultations and have the general support of the parties concerned.

The proposal for this change came out of the consultations leading up to the 1997 review of financial sector legislation. The Standing Senate Committee on Banking, Trade and Commerce, as well as the House of Commons Standing Committee on Finance, published reports in which they recommended that the government allow foreign banks to operate branches in Canada.

In September 1997, the Minister of Finance made public a discussion paper on foreign bank entry and carried out extensive consultations of all parties concerned.

The MacKay task force examined this discussion paper and declared itself in favour of allowing foreign banks to establish branches. The task force called on the government to implement such a system without delay.

In addition, the Standing Senate Committee on Banking, Trade and Commerce and the House of Commons Standing Committee on Finance confirmed their support for allowing the establishment of branches when considering the recommendations in the MacKay report last year.

Under the provisions of Bill C-67, foreign banks will be able to apply to the Minister of Finance for approval to establish branches in Canada.

In order to obtain this approval, foreign banks will have to meet requirements with respect to their size, experience and financial position. In addition, their capital will have to be broadly distributed in their country of origin and they will have to be regulated in that country by the competent regulatory body to the satisfaction of Canada's Superintendent of Financial Institutions.

The branches could operate essentially the same way as Canadian banks except for retail deposits, that is deposits of less than \$150,000. The branches' loan activities will not be limited.

Let us point out that foreign banks wanting to take in retail deposits may now do so through a Canadian subsidiary, which has all the powers of the Canadian banks.

The restriction on retail deposits is explained by the fact that we cannot set up regulations that are less exacting and demanding for banks and yet maintain high standards in Canada on the protection of funds on deposit.

I note in this regard that the MacKay task force, the Senate Committee on Banks and Trade and the House of Commons Finance Committee all concluded that foreign bank branches should not be allowed to take in retail deposits.

In order that foreign banks may have greater latitude, they will be able to establish full-service branches or loan branches.

A full-service branch will be able to take deposits over \$150,000, something a loan branch will not be able to do, regardless of the amount of the deposits. Furthermore, the loan branch will not be able to borrow from other financial institutions.

Proposing two types of branches provides the advantage of tailoring the level of regulations to the activities of foreign banks in Canada. As loan branches do not take in deposits, they would be subject to fewer regulatory requirements than full-service branches.

I want to point out that the bill under consideration includes a number of amendments made by the government as the result of the work of the committees. These technical amendments are intended to respond to the concerns expressed by the foreign banks after the bill was introduced initially.

As I have said, in general terms, full-service branches will not be able to take deposits of less than \$150,000.

The purpose of this is to ensure that depositors to full-service branches are informed investors, and understand the nature of the institution with which they are doing business.

The bill includes a provision whereby full-service branches may accept deposits under \$150,000 if these account for less than 1 per cent of the total branch deposits. Although this confers a certain amount of leeway, foreign banks justifiably feared that this \$150,000 limit would result in their ability to serve the needs of their business clients being restricted.

To remedy this, the government amended the bill to include an exception to this \$150,000 deposit limit under certain circumstances set out in the regulations. The regulations will afford the branches the flexibility they need to service their business clients while not extending access for regular retail deposits. We believe this is a very important change for attainment of the fundamental strategic objective, which is to broaden Canadian businesses' access to credit.

Another amendment has to do with the borrowing options of lending branches. Bill C-67 allows them to borrow from financial institutions but they prohibits the subsequent sale of any debt obligations, bankers acceptance or guarantee issued by that lending branch.

The amendment would permit these instruments to be subsequently traded to other financial institutions, but only under conditions set out in the regulations.

Another amendment extends the time allowed for filing of auditor's reports to five months, which is the period allowed for Canadian branches of foreign insurers.

I would also like to touch briefly on four technical changes contained in bill C-67.

First, if the foreign bank is a member of the World Trade Organization, it will no longer have to seek approval to establish individual branches in various different locations in Canada.

The second amendment eliminates the reciprocity provisions in the financial institutions statutes to reflect the most favoured nation principle of the WTO. Under this principle, parties to the

agreement must not discriminate among financial institutions from different countries and must grant most favoured nation treatment. This means that Canadian firms can expect to receive the same treatment as other foreign firms in WTO member countries.

The third amendment will authorize the Office of the Superintendent of Financial Institutions to accept delegated legislation or regulatory responsibility from a province if it so desires. The mechanisms of the agreement will be negotiated to the satisfaction of both parties.

The fourth and final amendment will provide authority to OSFI to make regulations restricting the disclosure of supervisory information by financial institutions.

In conclusion, I would point out that the purpose of Bill C-67 is to do away with a regulatory obstacle which limits the avenues available to foreign banks wishing to carry on business in Canada.

It will encourage a healthy presence of such banks in Canada and will encourage competition in the financial services sector. What is more, Canadian policies will then be brought in line with what is done in other G-8 countries.

I therefore encourage honourable senators to support this bill.

[English]

Hon. Donald H. Oliver: Honourable senators, I should like to join in the second reading debate on Bill C-67, which, of course, is commonly known as the Foreign Bank Bill.

The purpose of this legislation, as has been explained by both the Finance Minister and the Minister of State for Financial Institutions, and today by Senator Hervieux-Payette, is to make it easier for foreign banks to enter and work within the Canadian market, thus bringing more competition to existing Canadian financial institutions. That is the principle of the bill before us, and I accept that principle.

The main problem, as I see it from the point of view of someone who has been a member of the Standing Senate Committee on Banking, Trade and Commerce for many years, is that this legislation is very late in coming and it may not accomplish the goals that it set out to achieve.

While the government pays lip-service to increasing competition for our banking industry in Canada, it has taken a very long time to bring this legislation forward, and, at least initially, the government maintained sufficient tax roadblocks that few, if any, foreign banks or bank branches would have been established in Canada.

• (1630)

It is important to trace the path of this legislation to indeed determine if this government is serious about encouraging competition for the Canadian banking industry.

It was in June of 1996 that the government released a white paper entitled, "A Review of Financial Sector Legislation, Proposal for Change." While that paper proposed changes to the foreign bank legislative regime, it also announced the creation, at some time in the future, of the MacKay task force on the future of the Canadian financial services sector. Both the contents of the white paper and the fact that a task force would be created spelled the end of quick action to encourage competition from foreign banks.

Throughout all this, the Senate Banking Committee knew exactly where it stood on this issue. In August of 1995, in its report on the 1992 financial services legislation, the committee discussed competition in the following terms:

Competition is the goal of the deregulation process. Competition means more consumer choice and, ultimately, a more efficient financial services sector. Moreover, rapid and extensive globalization of the world's financial markets means that Canada cannot afford to fall behind in developing the full potential of its financial services market-place — a sector of Canada's economy that has been traditionally a very important contributor to this country's international economic growth.

In its 1996 report on the aforementioned white paper, the Banking Committee termed the proposals with respect to the foreign bank entry as "seriously flawed." In fact, the committee outlined for the government what it considered to be the policy goals that should be applied to the regime for foreign financial institutions. The regime should: ensure safety and soundness; protect consumers; enhance service offerings; and promote a reasonably level playing field with Canadian financial services providers.

The committee, after studying the issue, came forward with a recommendation dealing with foreign banks. The committee recommended that the government adopt a policy toward foreign banks that will offer these institutions the options of running their operations in Canada through a foreign branch, through a subsidiary, or through both a branch and a subsidiary. Based on this report, I thought that the government might move ahead on the foreign bank file, but that was not to be.

We had to wait for the Baille, and then the MacKay task force to report, and MacKay came down solidly in favour of increased competition. This competition was to come from encouraging the location and activities of foreign banks in Canada and from fundamental reforms of the cooperative movement which, if implemented, could challenge the existing banks.

Now, it was up to both the House and the Senate to study the MacKay recommendations before any action could be taken — and study them we did. The Senate Banking Committee held comprehensive hearings across Canada. Again, the Banking Committee endorsed changes to the foreign bank regime in Canada, but it added a word of caution. Paragraph 86 of the committee report bears repeating here. It states:

The proposed foreign bank branching policy, first outlined in the 1996 report of the Standing Senate Committee on Banking, Trade and Commerce, and supported in the Task Force recommendations, will not lead to increased competition in retail banking. Neither will it lead to increased competition in wholesale banking overnight. Thus, opening Canada's borders to foreign banks, while highly desirable as a public policy, is not a panacea. The Committee does not believe it will lead to the immediate creation of a multitude of new second tier consumer-oriented deposit-taking institutions.

Therefore, even with legislation allowing foreign branch banking, it is not at all clear that competition of the nature hoped for earlier by the Banking Committee would emerge.

With all this work as background, on February 11, 1999, almost three years from the time of the release of the white paper, the government introduced legislation supposedly to make it easier for foreign banks to locate and operate in Canada. However, even then, the government could not get it right. It is no wonder that the number of foreign banks operating in Canada dropped from 59 in 1987 to approximately 45 in 1998.

What did the government forget to do when it introduced Bill C-67? It forgot to change the Income Tax Act to make the changes sought by the bill financially feasible for the foreign banks. It was not until May 11 of this year, three months later, that the Minister of State for Financial Institutions announced amendments — not legislation, but amendments — to the original Ways and Means Motion that would allow a foreign bank to transfer property from its subsidiary to its new Canadian branch office on a tax-deferred basis. Also, the withholding tax would be deferred on the transfer of all or part of a subsidiary's retained earnings to a Canadian branch office of its foreign parent bank.

These tax changes are helpful. Without them, probably nothing would have happened in the foreign bank arena, but why were they not introduced when Bill C-67 was introduced? Is it simply because the government does not understand the issue or is it because the government does not really wish to foster a climate of competition? Why did we not have those changes in bill form before today?

As I have said earlier, I do not believe foreign banks will rush in to take advantage of this legislation. Let us look at what Bill C-67 does and at the hurdles it puts in front of foreign banks.

The bill provides for two types of branches. The first would be a full-service branch that could only take deposits of at least \$150,000. That is wholesale banking rather than the retail banking recommended by the parliamentary committees. Foreign banks that wished to take retail deposits would have to set up a Canadian subsidiary. Full-service branches will be able to join the Canadian Payments Association.

The second kind of branch would be a lending branch that could not take deposits and could only borrow from other financial institutions. These will be in the business of making loans in Canada. They will not be able to join the Canadian Payments Association. Foreign banks may not operate a lending branch in combination with either a full-service branch or a subsidiary. They may, however, operate through a subsidiary and a full-service branch if they so choose.

The government requires lending branches to deposit \$100,000 to \$10 million for full-service branches, in approved assets with an unaffiliated Canadian financial institution. Currently, a foreign bank operating a subsidiary in Canada must hold \$10 million in approved assets with an unaffiliated Canadian financial institution. Therefore, a foreign bank that has operated through a Canadian subsidiary for many years and now wishes to open full-service branches will have to hold another \$10 million in capital for a total of \$20 million.

A foreign bank wishing to establish a full-service branch would need to meet the following criteria: It would have to have a minimum of \$5 billion in worldwide assets; possess a proven track record in international banking; demonstrate favourable financial performance over the last five years; and be widely held.

I have a few questions which I look forward to asking when the bill is referred to committee for study. For example, what is the policy rationale for the \$10 million floor? If there is not one, why impose it if it will hinder competition?

Full-service branches are restricted to deposits of more than \$150,000. Why can there not be exemptions to this rule for so-called sophisticated depositors? Why limit competition when there is no public policy benefit? Foreign banks want to be able to operate and maintain both a subsidiary and a lending branch in perpetuity. Why discourage a foreign bank from doing both? This limits competition. It does not increase it. Why does the legislation restrict the type of structure a foreign bank must fit into? The Senate Banking Committee's report on the MacKay task force dealt at some length with the imaginative use of holding companies. Why put these restrictions on the corporate structure of foreign banks within Canada?

This bill represents a beginning and a slight opening of the window to allow in competition for Canada's Schedule I banks. However, I believe it is not sufficient and it is certainly not nearly imaginative enough to promote competition.

We will study this bill in committee. I look forward to hearing the rationale behind the bill, and what the government believes it has accomplished through its introduction. For me, the bill simply does not do enough to encourage competition in the financial services sector.

• (1640)

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, I will put the motion.

It was moved by the Honourable Senator Hervieux-Payette, seconded by the Honourable Senator Maloney, that Bill C-67 be now read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

CONSIDERATION OF MOTION TO ADOPT REPORT OF COMMITTEE— SPEAKER'S RULING—DEBATE ADJOURNED— NOTICE OF MOTION FOR TIME ALLOCATION

The Senate proceeded to consideration of the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Callbeck, for the adoption of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.—*(Speaker's Ruling)*

The Hon. the Speaker: Honourable senators, I always attempt to make rulings on bills very quickly because I do not think the Chair should delay bills in the Senate. However, it was impossible for me to make my ruling yesterday. The session was short and we were unable to deal with all the technical matters. I am prepared to proceed now.

On Tuesday, June 1, when Senator Poulin, the Chair of the Standing Senate Committee on Transport and Communications, was about to move the adoption of the twelfth report recommending certain amendments to Bill C-55, respecting advertising services supplied by foreign periodical publishers, Senator Lynch-Staunton raised a point of order. The Leader of the Opposition claimed that several of these amendments would have the effect of reversing the principle of the bill, which is contrary to established parliamentary practice.

In making his case, Senator Lynch-Staunton explained what he understood to be the principle of the bill. In his words:

...the intent of Bill C-55 was to prohibit absolutely the possibility of Canadian advertising being placed in American periodicals known as split runs.

Citing Canadian and British parliamentary authorities, he noted that amendments that effectively reverse the principle of the bill are out of order. Senator Lynch-Staunton also suggested that the amendments involve a possible tax expenditure, rendering the bill, as he assessed it, a money bill.

[Translation]

Honourable senators, Senator Poulin then explained how the amendments recommended in the committee report were in order procedurally. Based on her analysis of the title of the bill and the legitimate scope of committee review of a bill as characterized in the 6th Edition of *Beauchesne's Parliamentary Rules & Forms*, citations 688 and 689 at page 205, she maintained that the recommended amendments were in order. In the senator's view, Bill C-55, as amended by the committee, and I quote:

...remains unequivocally a bill respecting advertising services supplied by foreign periodical publishers.

The fundamental policy behind the bill continues to be, as she put it, and I quote:

...the preservation and defence of our culture by enhancing the ability of Canadian magazines to succeed in the market-place.

[English]

For his part, Senator Murray was not persuaded. In his brief intervention, he stated that the committee amendments had the effect of reversing a long-standing policy to exclude foreign split-run publications from the Canadian market.

Speaking against the amendments, Senator Kinsella cited another Canadian parliamentary text, the fourth edition of Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, and invoked the standards of Aristotelian logic. Though admitting that the amendments to Bill C-55 recommended by the committee were not the absolute negative of the bill's original proposition, he was in no doubt that they constituted "contrary opposition by any standard of logic." Accordingly, the senator contended that the amendments denied the principle of the bill and were unacceptable.

The discussion on the point of order continued with interventions by Senator Carstairs and Senator Graham, as well as further statements by Senator Poulin, Senator Lynch-Staunton, Senator Murray, and Senator Kinsella.

[Translation]

It was at this stage that a second element of the point of order became the focus of some comment. Senator Lynch-Staunton, in his first intervention, had suggested that Bill C-55 might be a money bill. Senator Kinsella noted certain statements of the minister during her appearance before the committee referring to a publishers' fund to be created to compensate those who will suffer financially as a result of the amendments now being proposed to this bill. By way of response, Senator Graham challenged the opposition to point to any section of the bill that provides for the expenditure of any money. He asserted flatly that, and I quote:

...this bill does not create such a fund, nor does it authorize any money whatsoever for any such fund.

[English]

I want to thank those honourable senators who participated in the discussion on the point of order. I have since had an opportunity to review the arguments presented and to assess the parliamentary authorities mentioned with respect to the scope of committee amendments to bills and the underlying importance of the principle of a bill as adopted at second reading. I have also read the clerk's copy of the bill with the amendments incorporated into it, in order to have a better understanding of their significance.

I shall deal with the second aspect of the point of order first. A connection has been made between the amendments to the bill and the minister's remarks about a related program that the government might put in place to aid publishers adversely affected by the consequences of Bill C-55 as amended by the committee's report. Senator Kinsella indicated that he regarded these two elements as interlocking, as a package. At the very least, he suggested that I consider the matter as problematic.

Senator Graham, on the other hand, challenged anyone to show any text in the bill that provides an expenditure of any government money. In his judgment, there is none to be found. This is certainly a critical point.

Any amendment that authorizes an expenditure from the Consolidated Revenue Fund would be out of order. As the chamber of sober second thought, it is not within the power of the Senate to introduce such an amendment. That is the responsibility of the other place.

[Translation]

It is not enough to suggest that there are consequences that might flow from the amendments, that there might be expenditures as a result of programs the government might establish following the implementation of Bill C-55. While such a program might be part of a package, they are not directly part of the bill itself or the amendments now before the Senate. As Speaker, I can only look at the bill and the amendments. What I see does not explicitly provide for the appropriation of any funds from the CRF. Accordingly, the incorporation of these amendments would not convert Bill C-55 into a money bill. The amendments are not out of order based on this second objection.

[English]

The original argument raised by Senator Lynch-Staunton is more problematic, but equally fundamental. It is his position that the amendments go against the principle of the bill. Citing the summary of the bill in clause 3, he maintains that the bill is seeking to prohibit absolutely the placement of Canadian advertisements in American split-run magazines. Any variation of this policy, whether 1 per cent or 99 per cent, would, according to the senator, violate this principle.

[Translation]

Holding a contrary position, Senator Poulin argues that the amendments are not contrary to the bill as understood by its long title which states that Bill C-55 is an Act respecting advertising services supplied by foreign periodical publishers. Furthermore, the senator explained that the amendments fall clearly within the scope of the bill and are relevant to it. The committee, in making its recommendations to amend the bill, was operating properly.

[English]

• (1650)

Reliance on the long title of the bill as a guide to assess the procedural acceptability of amendments to a bill is derived from British practice. In the United Kingdom, the legislative drafting conventions, as I have been advised, provide for titles that are more fully descriptive of the bill's contents. In Canada, however, the long title of bills is rarely as descriptive. More often, the title simply suggests its subject-matter. Indeed, with respect to amending bills, the title usually indicates only what acts are being amended. Frequently, there is little substantive difference between the long and short titles of the bill whether they are creating original acts or amending parent acts. That appears to be the case with Bill C-55. Consequently, the long title cannot always be used as reliable guide in assessing the procedural merits of any amendment.

A more useful approach, and one that must always be considered in examining the procedural acceptability of amendments, is to determine if they are within the scope of the bill and relevant to it. In the case now before us, the only amendments that seem to be in dispute are the ones that add new clauses 20.1, 21.1 and 21.2.

I do not think that there is any doubt that the amendments are relevant to the bill. There is nothing in their content that suggests that they are bringing into the bill anything that is extraneous or foreign to it. The real question is whether they are destructive of its principle. Do they have the effect of reversing this principle? Unless they do this unmistakably, I would feel obliged as Speaker to allow them and so let the Senate itself come to a determination on their merits.

It has been argued that the principle of the bill is enunciated in clause 3, which states that the provision of advertising services by foreign publishers should be restricted. With respect, I do not think that just one clause can capture the entire principle or scope of a bill, unless, of course, it is a very simple bill. Indeed, the principle of the bill can be difficult to identify precisely. As Speaker Jerome from the other place once pointed out in a ruling he made in 1976, past precedents give "absolutely no assistance in attempting to define what is the principle of the bill." Certainly I had the same challenge when I was asked to rule on the acceptability of amendments proposed to Bill C-28, dealing with the agreements for the redevelopment of Pearson International Airport, considered in the second session of the last Parliament.

[Translation]

In summary, therefore, I would suggest that the identification of the principle of a bill can encompass the understanding reflected by senators during debate at second reading as well as its title and content.

With respect to the principle of Bill C-55, the debate at second reading by several senators on both sides seemed to include a somewhat broader meaning than just clause 3. As was explained then, the principle or objective of Bill C-55 is to provide some means to ensure the continued viability of the Canadian magazine industry. Moreover, the text of the bill suggests that clause 3 can be subject to some qualification. For example, clause 20(c) states that the Governor in Council has the authority to make regulations respecting, and I quote:

...criteria to determine whether advertising services are directed at the Canadian market.

[English]

Even more important, clause 21 provides for what is described as the non-application of the act. This clause spells out an exemption that is aimed to protect some foreign publishers from the punitive operations of Bill C-55. The proposed amendments, new clauses 21.1 and 21.2, expand upon the scope of that non-application within certain other parameters. Whether these are desirable objectives is not for me to decide. My responsibility is to assist whether these proposed amendments are beyond the scope of the bill, whether they are clearly destructive of the bill's principle or whether they unmistakably reverse that principle. It does not appear to me that they do this.

It is my ruling that the amendments are in order. Debate on the twelfth report of the Standing Senate Committee on Transport and Communications recommending several amendments to Bill C-55 can now proceed.

Hon. John Lynch-Staunton (Leader of the Opposition): Point of order! The motion was moved by Senator Carstairs. Therefore, I assume that Senator Carstairs will lead off the debate. Honourable senators, yesterday, the Speaker ruled — for some strange reason, which I do not want to get into — that we had to have a motion before the point of order would have been accepted. I will argue that with His Honour at another time, I hope. In any event, Senator Carstairs made the motion. Therefore, I assume she is the person who will speak to it.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I defer to the Honourable Senator Poulin.

The Hon. the Speaker: Honourable senators, before we proceed, partly in response to Honourable Senator Lynch-Staunton's comments, I do not believe that I ordered that the second reading should proceed. There was some confusion as to what would happen, and I asked, "Is it the wish of the Senate that you proceed now?" That was my recollection of the event.

Senator Lynch-Staunton: Honourable senators, I said that I did not wish to get into an argument. We are not proceeding to second reading now, we are proceeding to the report.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I think we should have clarification on that point, for the record. In examination of the Hansard from yesterday, it was my understanding that, when this item was called, it was pending the Speaker's ruling. His Honour did rise and say that he was not ready with his ruling and that perhaps honourable senators would like to take advantage of the time to do something, namely, present a motion that the report be adopted.

The suggestion was then made that the point of order that had been raised the day before by Senator Lynch-Staunton, somehow, was out of order and that we should have had a motion from the government side to the effect that the report be adopted so that debate, as most commonly occurs, would proceed.

It was my opinion that the house had it properly before it, because on the previous day the report from the Standing Senate Committee on Transport and Communications was tabled. It was also on the Order Paper. A matter that has been tabled, circulated to honourable senators and is on the Order Paper but has yet to be moved is subject to a point of order if an honourable senator is of the view that that report, in and by itself, is out of order.

I think that Senator Lynch-Staunton was very much in his right to be able to raise the point of order, notwithstanding the fact that the motion to have the report adopted had not theretofore been made. I rose yesterday to register that objection, but I was not 100 per cent sure and I am only 30 per cent sure today. I think it would be helpful if His Honour could give us guidance on that matter.

The Hon. the Speaker: Honourable senators, I will be very pleased to do so. I will go back and check again. I believe that what you are saying reflects what has been done in the past. Senator Lynch-Staunton was quite proper in what he did when he raised his points of order. I was only making the point that I do not recall that I ordered that the motion be made. However, I shall be happy to check that again.

Honourable senators, are we prepared to hear now from the Honourable Senator Poulin?

Senator Lynch-Staunton: To finish that, His Honour the Speaker said yesterday:

Honourable senators, I have not received the ruling as yet....

There is, however, a bit of business that we might complete. The motion was not moved yesterday.

His Honour thus indicated that he preferred to have a motion before the chamber. That may not have been an instruction, but it was a strong indication.

• (1700)

[Translation]

Hon. Marie-P. Poulin: Honourable senators, as chair of the Standing Senate Committee on Transport and Communications, I would first like to explain the nature of the amendments proposed in the committee's report on Bill C-55, respecting advertising services supplied by foreign periodical publishers, and then to make a few comments.

The purpose of this bill is to ensure the long-term viability of our periodicals industry, while respecting our various international obligations. Bill C-55 is based on the traditional Canadian approach of protecting and promoting our cultural industries.

During its many meetings on this bill, the committee heard close to 40 witnesses representing various interested groups. The committee made four amendments to Bill C-55. These amendments follow on the agreement between Canada and the United States to end the dispute between the two countries on this issue.

The first amendment changes the rules on the rate of foreign participation in Canadian periodical publishing companies. Under this amendment, Canadian companies will henceforth be allowed increased foreign content. Magazines that are more than 50 per cent owned and managed by Canadians will be considered Canadian.

The second change is a new clause in the bill. Clause 20.1 gives the Canadian government increased regulatory power in order to establish a system for determining Canadian advertising revenue with respect to total advertising revenue from a foreign periodical. This amendment will make it possible to enforce the next clause, which is a so-called *de minimis* exemption provided for in clause 21.1.

This third amendment incorporates a *de minimis* exemption clause in the bill. This amendment to Bill C-55 will give foreign publishers limited access to the Canadian advertising market. The day the legislation takes effect, foreign publishers will be able to publish advertising up to 12 per cent of which is aimed at the Canadian market. This access will be gradually increased to 18 per cent 36 months after the legislation takes effect.

The final change, clause 21.2., is an exception which allows a foreign publisher to invest in an area of commercial activity relating to Canadian cultural heritage or national identity. The publisher must submit to an approval process under the Investment Canada Act in order to establish in Canada. Only those offering a clear advantage to Canada will be accepted. The parameters defining this concept of clear advantage will be available shortly in the guidelines to be drawn up for release by the Department of Canadian Heritage.

[English]

Honourable senators, Bill C-55 has generated a great deal of public debate. These amendments make the bill more acceptable. This ground was covered during our debate on the point of order earlier this week.

It was surprising to hear during that debate the assumption that my remarks, as Chair of the Standing Senate Committee on Transport and Communications, had been prepared by ministry officials. I was relieved when Senator Kinsella indicated during a rebuttal by Senator Carstairs that he would withdraw the erroneous assertion, and I truly appreciate his coming to me later on to apologize. I thank the honourable senator for his generous courteousness.

Honourable senators, when we as senators study legislation in committee, we always take into account the reality surrounding the bill. The reality here is plain enough.

First, new technology is transforming our world into the "global village."

Second, we have no cultural exemptions before the World Trade Organization. Canada fought that battle once three years ago and lost. This time the committee feels that, with Bill C-55 as amended, Canadians have a victory within their grasp. Let us not allow the opportunity to protect and promote our culture slip away. The fact that the Americans have recognized a foreign country's right to protect its culture in trade negotiations is a significant advancement. We ought to be proud of this accomplishment.

Striking an accord that recognizes cultural integrity and avoids triggering a trade war in which both countries, Canada and the U.S., would suffer sounds like a good deal.

Ms Copps noted at the committee that Gordon Ritchie was dead right in his assessment of retaliatory measures by the U.S., and she acknowledged that she was unsure that Bill C-55 unamended was the best possible solution. The cultural implications, the advantages of the legislation as amended, cannot be overemphasized. The words of the minister at the committee meeting of May 31 put the situation we are dealing with into perspective:

From the beginning of this process, I said that if the Americans put something on the table specifically related to a recognition of the uniqueness of culture and content, we were looking for an agreement. The fact that we have an agreement gives us the certainty of knowing that we will not be dragged before future international tribunals.

Another poignant observation by the minister also puts the amendments to Bill C-55 in perspective:

I do not want to overstate the legislation, but I do know that never before in history has the American government agreed that a foreign law that permits discrimination on the basis of content is unappealable to their tribunals, domestically and internationally. It happened because the

Prime Minister felt strongly enough that he took this issue all the way to the President of the United States.

This is not political rhetoric, honourable senators. *The Washington Post* had this to say:

...for the first time, the United States was forced to accept the principle that, even in a free-trade environment, foreign countries could take steps to limit access to their markets by American firms in an effort to protect the viability of local culture — in this case, a Canadian magazine industry that could provide an outlet for Canadian writers to tell Canadian stories and deal with Canadian themes.

That, honourable senators, is not a symbolic recognition. Therefore, I invite you to embrace these achievements by adopting the committee report concerning Bill C-55.

[Translation]

In closing, honourable senators, I must thank the Deputy Chair of the Transport and Communications Committee, Senator Forrestall, as well as all the senators who took part in the numerous hearings.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator take a couple of questions for clarification?

Senator Poulin: Certainly, honourable senators.

Senator Kinsella: Could the senator explain to the house the relationship between the amendments included in the report and the negotiations we have all heard about that have gone on between Canada and the United States concerning the magazine bill?

Senator Poulin: I thank the honourable senator for his question.

As honourable senators know, the Transport and Communications Committee sat for several weeks to hear from over 40 witnesses on Bill C-55.

• (1710)

We, unfortunately, did not have the opportunity to sit at the negotiating table. What we heard about the negotiations was related to us by the witness who made a presentation and who received our questions, the Minister of Trade Sergio Marchi. Also following this negotiation, we heard from the Minister of Heritage, Minister Copps.

I take for granted that their presentations and their answers instructed all members of the committee on the links between what was tabled in the negotiation itself and these amendments.

Senator Kinsella: When Minister Marchi appeared, did he not tell us that, when he appeared before us, there was as yet no agreement?

Senator Poulin: Honourable senators, I do not have in front of me the blues of the hearing when Minister Marchi was before the committee. I must rely on my memory. I do not honestly remember hearing the minister say that there was no agreement. I do remember hearing Minister Marchi saying that he was very open to an agreement.

Senator Kinsella: Honourable senators, it is my recollection that Minister Marchi did tell us that he was hopeful there would be an agreement, but there was none when he was the witness before us. Then when Minister Copps appeared, we asked her if she had a copy of this agreement and she said no, she did not.

Is that your understanding of what happened at the committee when Minister Copps appeared?

Senator Poulin: Once again, honourable senators, I do not have the blues of the meeting at which the Honourable Sheila Copps appeared. If I remember correctly, in her opening remarks she very reliably related to us the key issues on which there had been an understanding between both countries. I would not wish to comment on the agreement itself. I believe that was the responsibility of the minister herself.

Senator Kinsella: Has the honourable senator yet seen a copy of this agreement upon which the amendments were based?

Senator Poulin: Honourable senators, my role as chair of the Transportation and Communications Committee is to ensure that due process is followed in the review of Bill C-55.

Senator Kinsella: The report that we have received includes amendments that are tied to an agreement between the United States and Canada, which agreement neither the Minister of International Trade nor the Minister of Canadian Heritage could present to us.

Earlier this afternoon during Question Period, I asked the Leader of the Government in the Senate whether he had seen a copy of this agreement upon which the amendments are based.

Does the honourable senator think it is good practice for us in this house to be adopting legislation that is based on travaux préparatoire that we have not seen and to which we have no access?

[Translation]

Senator Poulin: We recognize the moral and real authority of the ministers who appeared before us, and have therefore accepted the testimony of both ministers as objective and honest.

[English]

Senator Kinsella: The honourable senator recognizes that there is a common practice, when committees or other tribunals have witnesses giving testimony, to have witnesses appear sometimes under a summons known as *duces tecum*. The witnesses arrive with documents that may be germane to the testimony that they will give.

This places all of us in the situation, including the distinguished Chairman of the Transportation Committee, where all we have to rely on is the testimony given. There are certain lacunae in the testimony. We have serious amendments based upon an agreement. Neither of those witnesses was able to give us a copy of that agreement.

In your report then, you speak of the amendments and the time line to be followed within which foreign publishers may publish Canadian advertisements up to the level of 12 per cent. There is another time line for up to 15 per cent and yet another specific period for 18 per cent within three years.

Did your committee receive any assurance that percentages of 12, 15 and 18 within those time lines are the same conditions agreed to by the negotiators for Canada and the United States? How do we know that it was not 9, 13 and 26 per cent?

Senator Poulin: When the honourable senator uses Latin words, he takes me back to private school where I studied Latin for five years. Unfortunately, that was so long ago that I cannot remember the appropriate words to answer in that language.

I return to the same answer that I gave earlier. We fully accepted the testimony of the two ministers on these matters. We know that the implementation of the bill will be the responsibility of the Department of Canadian Heritage.

The Hon. the Speaker: I must point out that the 15-minute period for speech and questions has expired.

Senator Kinsella: Honourable senators, it is not for me to request an extension. Since one has not been requested, I do now rise to move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

NOTICE OF MOTION FOR TIME ALLOCATION

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Friday, June 4, 1999, I will move:

That, pursuant to rule 39, not more than a further six hours of debate be allocated to dispose of both the report stage and third reading of Bill C-55, respecting advertising services supplied by foreign periodical publishers;

That, when debate comes to an end or when the time provided for the consideration of all stages of the bill has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of all remaining stages of the bill;

That any recorded vote or votes on the said question be taken in accordance with the provisions of rule 39(4).

[Later]

Honourable senators, a few moments ago I gave notice for time allocation on Bill C-55. At that time, I neglected to mention an important part of that notice.

In order for there to be no confusion on the matter, I would like the record to show that there had been discussions with the opposition about allocating a specified number of hours for debate at report stage and third reading. Unfortunately, we have not at this point been able to agree, which is why I gave notice earlier this day.

• (1720)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(Honourable Senator Corbin)

Hon. Eymard G. Corbin: Honourable senators, I rise today to speak on Bill S-29 which, in my opinion, is a positive step forward in dealing with so-called “end-of-life issues.”

Modern medicine has given humankind the opportunity to live longer and healthier lives. However, despite medical advancements, many Canadians of all ages suffer from a multitude of debilitating terminal diseases. The fact that medicine can delay or slow down dying processes has fired the debate on whether or not medical techniques should be applied, and, if so, in what circumstances. Some Canadians believe that terminally ill persons have the right to be left to die, whereas others believe that medicine should do everything in its power to postpone death. Of course, consideration of the issue comes in a multitude of degrees, shades, and colour.

This debate over life and death is not new. In 1983, the Law Reform Commission of Canada examined end-of-life issues and recommended that the Criminal Code be amended to give patients the right to reject medical treatment. In addition, they asked that physicians not be permitted to violate this right.

Later, in 1995, the Special Senate Committee on Euthanasia and Assisted Suicide, chaired by now-retired Senator Joan Neiman, of which Senator Lavoie-Roux was the deputy chair and myself and other senators were members, produced a report entitled “Of Life and Death.” That report examined the highly controversial issues of euthanasia and assisted suicide. Our study constituted a Canadian parliamentary breakthrough and will stand in the annals of the Senate as one of its brilliant, avant-garde pieces of work. Our committee recommended that amendments be made to the Criminal Code in order to clarify the

circumstances under which withholding and withdrawal of life-sustaining medical treatment are legally acceptable.

Despite this ongoing debate, Canadian legislators have failed to implement clear guidelines for doctors and nurses who treat and care for terminally ill patients. It is particularly annoying that members of the other place have yet to give these matters proper attention. Canadian health care workers are treating terminally ill and near-death patients outside the framework of clearly defined and up-to-date legal parameters.

During our study, the committee heard witnesses who explained that there was confusion among health care workers around the issues of withholding and withdrawing life-sustaining treatment, of administering medication to control pain, and fear of the imputation of criminal responsibility for improper actions, though such deeds have yet to be determined within the broadly based consensual legal framework. More frightening is the practice of some to impose their personal code of ethics on suffering humanity. As Senator Keon indicated in his recent speech on Bill S-29, these fears have led to the improper treatment of some terminally ill patients.

Some health care workers administer inadequate amounts of pain medication because, among other reasons, they have insufficient training and knowledge regarding palliative care. Indeed, our committee was appalled by the lack of knowledge surrounding proper pain-management techniques. These fears and the inadequate care are what we as parliamentarians must address. My goodness, even His Holiness Pope John Paul II addressed these issues in a positive manner. Canada’s political parties, including successive governments, are avoiding the subject and, in my considered opinion, are failing to assume their prerogative of initiative and leadership in this respect.

We are not doing the country, hospital administrators, the professions, the patients and their families and friends, and even the local coroners and juries any good by delaying or refusing to address these matters so as to collate them in a proper corpus of law. We are allowing our prejudices to come into play. We have been stalled at the crossroads. This is a complicated challenge, considering the number of interested parties and split jurisdictional difficulties. If the government has a plan or strategy to deal with this challenge, we should be told about it. It has had almost four years to reflect on our report, and yet not a word of reaction.

Recent Canadian cases show that there is a pressing need to legislate and regulate critical end-of-life issues. It will not satisfy this former member of the House of Commons and this senator to have the Supreme Court of Canada assume our legislative responsibilities with an occasional trickle of commentary and guidelines. I only ask for an opportunity to exercise my legislative duties.

Other senators who have spoken to Bill S-29 have mentioned the case of Dr. Nancy Morrison as a recent example, but I will not dwell on specific legal cases at this time, though I may do so when I rise to speak on Senator Carstairs’ inquiry.

Bill S-29 is a most important initiative in the effort to establish clear guidelines, which Canadians, the medical profession and health care workers have indicated are necessary to provide more responsible and competent care for the patients. The guidelines proposed by Bill S-29 include amending the Criminal Code to absolve or exempt a physician from the responsibility of having to administer medical treatment where such treatment is against the patient's wishes. In addition, Bill S-29 calls for the requirement of health care providers to obtain free and informed consent from the patient or substitute decision-maker concerning pain control and medication and to respect living wills.

Many senators believe that Bill S-29 respects the patient's right to control his or her own treatment and protects health care workers, who act in accordance with these legal standards, from criminal prosecution. I also believe that this bill has the potential to achieve these goals. Therefore, I am anxious to have Bill S-29 referred to the appropriate committee for a detailed and in-depth study. Bill S-29 proposes important changes to the Criminal Code, and it is imperative that we fully understand their impact on patients, their families, and health care professionals for the immediate and long term.

Once again, I thank Senator Lavoie-Roux for this important statutory initiative, which should have the effect of inciting the Government of Canada and the elected house to join with us in assuming their responsibilities and putting some order into the laws and regulations concerning end-of-life issues. I do trust, however, that she will not lose patience with the process. There are no quick fixes to these important fundamental issues. Though she may have seen the light, others remain to be convinced. That goes to the very heart of what this institution is all about.

A thorough examination of the bill, with the assistance of the best available legal experts, is also very much a part of the process. We cannot afford, as the house of legislative review, to put forward flawed proposals for the other place's approval. I do hope that the members of whichever committee of the Senate this bill is referred to will apprise themselves of the painstakingly arrived at report and recommendation of the special committee to which I already alluded so that the bill is examined in its proper context.

• (1730)

If the Senate can meet the challenge across party lines and come up once more with a first-class piece of work, we will have solidly anchored our claim to political leadership in the field of end-of-life issues.

Let our detractors from the other place waste their time pedalling hot dogs, if it amuses them. The quality of our work will be mustard and ketchup on their haughty faces — and may their buns be soggy! The Senate does care about the sick, the dying, and health care professionals and institutions. We will not be distracted by jokers.

On motion of Senator Carstairs, debate adjourned.

PRIVILEGES, STANDING RULES AND ORDERS

CONSIDERATION OF NINTH REPORT OF COMMITTEE—
ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Ferretti Barth, for the adoption of the ninth report of the Standing Committee on Privileges, Standing Rules and Orders (independent Senators) presented in the Senate on March 10, 1999.—(Honourable Senator Kinsella)

Hon. Marcel Prud'homme: Honourable senators, I wish to ask Senator Kinsella if he intends to participate in this difficult issue. In a few minutes, we will have received a report amending a report that was already amended.

We would like to know what is going on. The ninth report was accepted in committee. It has been amended, to our chagrin and regret. There is a new report dealing with many other matters and squeezed in as part of the ninth report.

I would like to know if there will ever be a debate. This item has been on the Order Paper for 10 sittings now; it can only remain on the Order Paper for five more days. I hope that it will be back to zero soon, but not today.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I thank the senator for his inquiry. It is not my intention to speak on this item today. Indeed, the notes that I had prepared I now wish to review in light of the subsequent report to which the senator has alluded.

Senator Prud'homme: May I ask for direction from the Chair?

If we arrive next week with this item having been on the Order Paper for 15 sittings, it will die on the Order Paper the day following. Any senators who have permission to say a few words will kill the deadline and it will revert to zero. Do I understand the process correctly?

The Hon. the Speaker: The accepted practice is that even though a matter stands in the name of a certain senator, any other honourable senator who wishes to speak may do so.

You are correct that, if an item reaches 15 sitting days on the Order Paper and someone speaks even briefly before that, the order returns to day No. 1.

Order stands.

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the sixteenth report (Interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "The Governance Practices of Institutional Investors," tabled in the Senate on November 19, 1998.—(Honourable Senator Meighen)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I shall be brief on this item. I rise to say a few words in consideration of the sixteenth report of the Standing Senate Committee on Banking, Trade and Commerce entitled "The Governance Practices of Institutional Investors."

This report is the committee's second stand-alone report on issues relating to governance practices. The work of the committee on issues of corporate governance is unprecedented, as will be evidenced in upcoming amendments that we will see relating to the Canada Business Corporations Act in which it is expected that all recommendations of the committee's first report might find favour in this place.

As Senator Meighen will state in this chamber next week, when he speaks to this report, he has found that the report has already brought about change in the institutional investor industry through voluntary standards from various associations.

The work of the Banking Committee is an example of the wealth of value that this place provides to Canadians, Parliament and government.

The Hon. the Speaker: Honourable senators, this matter will remain standing in the name of the Honourable Senator Meighen.

Hon. Sharon Carstairs (Deputy Leader of the Government): We must clarify that it will revert to No. 1.

HEALTH

MOTION TO MAINTAIN CURRENT REGULATION OF CAFFEINE AS FOOD ADDITIVE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

That the Senate urge the Government of Canada to maintain Canada's current regulation of caffeine as food additive in soft drink beverages until such time as there is evidence that any proposed change will not result in a detriment to the health of Canadians and, in particular, to

children and young people.—(Honourable Senator Carstairs)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, caffeine has been listed as a food additive in Canada's Food and Drug Regulations since the inception of the food additive regulations and tables in 1964, and had been used in cola-type beverages long before that time.

Caffeine, while not having much flavour in itself, is intensely bitter and is used as a bittering agent. That is to say that it modifies by making bitter the other flavours.

Canada is one of the few countries that regulate closely the use of caffeine in soft drinks. The United States, United Kingdom and members of the European Community and many other countries of the world allow its broad use in soft drinks.

Caffeine, like some other substances used in soft drinks — for example quinine, a flavour often used in tonic waters, or saponins, used as heading or foaming agents — has some physiological activity and can be used both as a food additive and as a drug.

Caffeine is physiologically active in the body and is well known for its stimulative effects. As Senator Spivak stated in her remarks, some individuals experience insomnia, headaches, irritability, nervousness and hyperactivity after consuming caffeine. Caffeine is naturally present in several foods like coffee, tea, cocoa, chocolate, chocolate milk and guarana extracts. The level in soft drinks is six to nine times lower than the level in filter-drip coffee. Unlike naturally occurring caffeine, when caffeine is used as a food additive, it must be declared so in the list of ingredients appearing on the label. This allows those who do not wish to consume caffeine to avoid it.

Let me take a few moments to outline the events that prompted Senator Spivak to move the motion before us today.

In October 1996, a major international beverage manufacturer requested, in accordance with requisite preclearance procedures under the Food and Drug Regulations, an amendment to provide for the use of caffeine in all soft drinks. Specifically, this company has marketed a citrus-flavoured product in North America for a number of years. In the U.S.A., this product has contained caffeine for many years, whereas in Canada caffeine cannot be added to this type of product. The company wishes to standardize its formulation for North America at the same level, unfortunately, as that used in the U.S.A. The purpose of caffeine in the formulation is to add to the specific bitter flavour and taste in the soft drink.

Preliminary internal assessment of this proposal within Health Canada did not raise any health concerns for the consumer, as the projected intakes of caffeine in general are not expected to increase if citrus-based, caffeine-containing soft drinks are substituted for traditional caffeine-containing, cola-type soft drinks. It was recognized, though, that acceptance of this proposal would result in more types of soft drinks containing caffeine and therefore a slight increase in the general overall average consumption of this product.

A proposal to allow the addition of caffeine to non-alcoholic, carbonated, citrus-flavoured beverages at a maximum level of 200 parts per million was pre-published in Part I of the *Canada Gazette* on January 3, 1998, with a 90-day closing date for comment.

A targeted consultation was conducted at the same time with a number of medical associations, consumer groups, regulatory agencies, government agencies and health professionals. Of the 13 respondents to these consultations, four expressed no concern with the proposal, eight were against the proposal, and one, a major addiction and mental health organization, stated that it had no position.

The predominant concerns expressed against the proposal dealt with the potential lack of availability of non-caffeinated alternative beverages and the proper labelling of products containing caffeine.

As a result of comments received through the consultation process, including comments from the Centre for Science in the Public Interest and from the Women's Health Clinic of Winnipeg, Manitoba, Health Canada conducted an extensive review of the physiological and toxicological effects of this food additive. This review focused particularly on consideration of any potential impact on children and women of child-bearing age. The review has been peer-reviewed internally by Health Canada scientists and will also be peer-reviewed externally by qualified scientists outside of Health Canada.

To date, the extension of the use of caffeine has not been approved. Health Canada indicates that a final decision on this submission will be made when the scientific review and consultation process has been completed.

Honourable senators, the public health of Canadians must be a first priority. I applaud the government for undertaking the scientific review of caffeine, and I applaud Senator Spivak for bringing this motion before us. I agree with her that a comprehensive review must be completed to ensure that such a change would not be to the detriment of Canadians in general, but particularly not to the detriment of Canadian youth. I urge honourable senators to support this motion.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will put the motion. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

DRAGON BOAT FESTIVAL

INQUIRY—DEBATE ADJOURNED

Hon. Vivienne Poy rose pursuant to notice of May 31, 1999:

That she will call the attention of the Senate to the Dragon Boat Festival.

She said: Honourable senators, June is the time for the Dragon Boat Festival, which is one of the three most important festivals in Chinese culture. The festival, also known as the Poet's Festival, is called *Duan Wu Jie* in Chinese. It is celebrated on the fifth day of the fifth month of the Chinese lunar calendar, the timing of which is closely linked to the summer solstice.

In the fourth century B.C., near the close of the warring states period in China, lived a poet-statesman named Qu Yuan, a member of the Royal House of Chu and minister of Huai, King of the State of Chu. Qu frowned on the corruption of the court and proposed effective domestic political reforms, a legal system, and a civil service to hire only people of great competence and integrity. He was opposed by other advisors to the king, as well as by the queen consort. His advice to King Huai to make an alliance with the State of Qi against the State of Qin was ignored. Qu was banished and wandered around the country writing many odes and poems showing his concern for his country, and he gained great respect from the people.

In the year 278 B.C., Qin troops defeated the State of Chu and absorbed it. Not wanting to see his country vanquished by the enemy, Qu Yuan, the age of 62, held a rock in both arms and drowned himself in the Miluo River, present-day Changsha.

When the news of his death came, the people rushed to the scene, rowing boats in the river in an attempt to find his remains, which had drifted downstream and were never recovered. According to legend, this happened on the fifth day of the fifth month of the Chinese lunar calendar. Qu Yuan's fame spread across the land, and every year the people mourned his death by rowing boats in the river and the sea, throwing in bamboo leaves filled with glutinous rice symbolically to prevent the sea creatures from mutilating Qu's body.

There is so much respect for Qu Yuan in China that in 1957 he was one of the four cultural giants the World Peace Council called on the people of the world to commemorate.

• (1750)

The painting of boats to look like dragons began in the late neolithic period in China. A tribe called Raiyue that lived in ancient Wu and Yue, present day Jiangsu and Zhejiang provinces, offered sacrifices to their totem, the dragon. The men cut their hair short and tattooed their bodies with dragon designs, for they considered themselves as scions of the dragon. They also painted dragon designs on their boats and tools and threw rice wrapped in reed leaves into the water as an offering to the dragon on the fifth day of the fifth month.

Today's Dragon Boat Festival has its origins in both the tradition of commemorating the people's poet, Qu Yuan, and in honouring the dragon. Over the centuries, the people of China celebrated the event annually by holding a dragon boat race, imitating the day the people took to their boats to try to retrieve Qu Yuan's body. The boats were decorated with dragon heads at the bows.

The culinary traditions of the festival still reflect the glutinous rice wrappings that people threw in the water. At this time of year, steamed glutinous rice wrapped in bamboo leaves, sometimes stuffed with pork or red beans, is consumed by Chinese all over the world.

This year, the Dragon Boat Festival falls on June 18 in the Gregorian calendar. Over the past 10 years, more and more Canadian cities are hosting their own dragon boat races. Most of the races occur in June and July, though some cities celebrate as late as September.

This celebration draws Canadians from all walks of life and has become a mainstream Canadian festival in Victoria, Vancouver, Calgary, Edmonton, Winnipeg, Regina, Montreal, and Halifax. In Ontario, races are held in Ottawa, Toronto, Guelph, Pickering, Hamilton, Waterloo, Woodstock, London, and Stratford.

Internationally, they are held all over Asia and Europe, as well as in South Africa, Australia and New Zealand.

In Toronto, the dragon boat races are now in their eleventh year. Last year, the races drew over 100,000 people. This year, the celebration will include more than 30 multicultural performances, and 85 races with 160 teams participating.

Honourable senators, the Dragon Boat Festival is a wonderful opportunity for us to celebrate our multicultural heritage in Canada. I hope that many of you will have the opportunity to participate in the festivities in your respective parts of the country.

On motion of Senator Prud'homme, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, June 7, 1999 at 4 p.m.

Hon. Marcel Prud'homme: Honourable senators, again, I speak on behalf of another independent senator, as well as myself.

Indeed, there has been an agreement between the two parties. However, we will consider that there was also consultation with us. We will not push further. However, we will pretend, or do, or act, as if there were consultations with at least two of us. I do not wish to speak for the other independent senators.

The Hon. the Speaker: Honourable senators, is leave granted?

Some Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, June 7, 1999 at 4 p.m.

**THE SENATE OF CANADA
PROGRESS OF LEGISLATION**

(1st Session, 36th Parliament)

Thursday, June 3, 1999

**GOVERNMENT BILLS
(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications	98/04/02	four	98/05/27	98/06/18	20/98
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20	98/06/11	12/98
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/11/02/22	Transport and Communications	97/12/12	three	97/12/16	98/05/12	06/98
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/11/02/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11	98/05/12	09/98
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19	98/06/11	13/98
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none	98/06/02	98/12/03	33/98
S-21	An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts	98/12/01	98/12/03	Whole	98/12/03	one at 3rd	98/12/10	98/12/10	34/98
S-22	An Act authorizing the United States to preclear travellers and goods in Canada for entry into the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health	98/12/01	99/02/11	Foreign Affairs	99/03/24	four	99/04/28		

S-23 An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier

98/12/10 99/02/03 Transport and Communications

99/03/11 none

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/12/16	Committee of the whole 97/12/17	none	97/12/18	97/12/18	40/97	
C-3	An Act respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts	98/09/30	98/10/22	Legal and Constitutional Affairs	98/12/08	none	98/12/09	98/12/10	37/98
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26	Agriculture and Forestry	98/05/14	five	98/05/14	98/06/11	17/98
C-5	An Act respecting cooperatives	97/12/09	97/12/16	Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley, to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26	Aboriginal Peoples	98/06/09	none	98/06/18	98/06/18	25/98
C-7	An Act to establish the Saguenay-St.Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/12/02	Energy, Environment and Natural Resources	97/12/09	none	97/12/10	97/12/10	37/97
C-8	An Act respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas	98/03/17	98/03/25	Aboriginal Peoples	98/03/31	none	98/04/01	98/05/12	05/98
C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/12/09	98/03/26	Transport and Communications	98/05/13	none	98/05/28	98/06/11	10/98

C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology	98/06/04	none	98/06/08	98/06/11	11/98
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05	98/06/03	Transport and Communications	98/06/10	none	98/06/11	98/06/11	16/98
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/06/08	Social Affairs, Science & Technology	98/06/18	none	98/06/18	98/06/18	26/98
C-20	An Act to amend the Competition Act and to make consequential and related amendments to other Acts	98/09/24	98/11/17	Banking, Trade and Commerce	98/12/03	none + two at 3rd	98/12/10 Commons amendments referred to Committee 99/02/11	99/03/11	02/99
C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none	98/03/31	98/03/31	04/98

C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	97/11/26	97/12/04	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-27	An Act to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements	99/04/21	99/04/27	Fisheries	99/05/13	none	99/05/13	99/05/13	
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98
C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98

C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs	99/03/04	none	99/03/09	99/03/11	05/99
C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24	98/12/03	32/98
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09	98/12/10	36/98
C-55	An Act respecting advertising services supplied by foreign periodical publishers	99/03/16	99/03/24	Transport and Communications	99/05/31	three			
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/02/18	none	99/03/02	99/03/11	03/99
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications	99/03/17	none	99/03/18	99/03/25	09/99
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	99/02/16	none	99/02/18	99/03/11	01/99
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	—	—	—	98/12/09	98/12/10	40/98
C-61	An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof	99/03/16	99/03/18	Social Affairs, Science & Technology	99/03/23	none	99/03/24	99/03/25	10/99
C-64	An Act to establish an indemnification program for travelling exhibitions	99/05/31	99/06/03	Social Affairs, Science & Technology					
C-65	An Act to amend the Federal-Provincial Fiscal Arrangements Act	99/03/11	99/03/16	National Finance	99/03/23	none	99/03/24	99/03/25	11/99
C-66	An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act	99/05/11	99/05/11	Social Affairs, Science & Technology					
C-67	An Act to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts	99/05/31	99/06/03	Banking, Trade and Commerce					
C-69	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/05/11	99/05/12	National Finance	99/06/03	none			
C-71	An Act to implement certain provisions of the budget tabled in Parliament on February 16, 1999								

C-72	An Act to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act	99/05/11	99/05/13	Banking, Trade and Commerce	99/05/31	none
C-73	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	99/03/17	99/03/23	—	—	99/03/24
C-74	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/03/17	99/03/24	—	—	99/03/25
C-76	An Act to provide for the resumption and continuation of government services	99/03/24	99/03/24	Committee of the Whole 99/03/25	99/03/25	15/99
C-78	An Act to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act	99/05/31	99/06/03	Banking, Trade and Commerce	99/03/25	13/99
C-79	An Act to amend the Criminal Code (victims of crime) and another Act in consequence	99/05/31				

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-208	An Act to amend the Access to Information Act	98/11/17	99/02/11	Social Affairs, Science & Technology	99/03/11	none	99/03/16	99/03/25	16/99
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Legal and Constitutional Affairs	98/06/10 adopted	recommend Bill not proceed	98/06/09	98/06/18	27/98
C-410	An Act to change the name of certain electoral districts	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	two	98/06/09	98/06/18	27/98
C-411	An Act to amend the Canada Elections Act	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	18/98
C-445	An Act to change the name of the electoral district of Stormont-Dundas	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	07/99
C-464	An Act to change the name of the electoral district of Sackville-Eastern Shore	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	08/99
C-465	An Act to change the name of the electoral district of Argenteuil-Papineau	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/09	99/03/11	06/99

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3)	98/10/01	
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03	none	referred back to Committee	98/09/24	
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/06/04	one	98/06/09	<i>Motion for 2nd reading negatived in the Commons</i> 99/04/13	
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs					

S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology	98/05/14 seven + two at 3rd	98/06/10	Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02	
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples				
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18 Report & Bill withdrawn 98/12/08	four		
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs				
S-19	An Act to give further recognition to the war-time Service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)	98/06/18						
S-24	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Beaudoin)	99/03/03						
S-26	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/03/10						
S-27	An Act to amend the Canada Elections Act (hours of polling at by-elections) (Sen. Lynch-Staunton)	99/03/16						
S-28	An Act to amend the Canada Elections Act (hours of polling in Saskatchewan) (Sen. Andreychuk)	99/04/20						
S-29	An Act to amend the Criminal Code (Protection of Patients and Health Care Providers) (Sen. Lavoie-Roux)	99/04/29						

PRIVATE BILLS

	PRIVATE BILLS					
S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.) <i>(Dropped from Order Paper pursuant to Rule 27(3)98/11/17)</i> <i>(Restored to Order paper 99/04/15)</i>	98/06/17	99/04/20	Banking, Trade and Commerce	99/05/04	none
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03	three
S-25	An Act respecting the Certified Accountants Association of Canada (Sen. Kirby)	99/03/04	99/03/23	Banking, Trade and Commerce	99/04/20	two
S-30	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/05/13			99/04/22	99/04/29

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CANADA

Debates of the Senate

1st SESSION

• 36th PARLIAMENT

• VOLUME 137

• NUMBER 145

OFFICIAL REPORT
(HANSARD)

Monday, June 7, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 995-5805

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THE SENATE

Monday, June 7, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL TRANSPORTATION WEEK

Hon. Marie-P. Poulin: Honourable senators, I rise to recognize National Transportation Week, which runs from June 7 to June 12, 1999. Today, with you, I pay tribute to the hundreds of thousands of men and women who ensure that our economy keeps moving. By air, road, rail, and water, these individuals toil around the clock, moving people and goods in a never-ending cycle of mobility.

We hear much about the Internet and so-called "death of distance" through telecommunications technology, but our vast geography here in Canada demands superior physical links. Our road and rail infrastructure, our harbours and airports keep us connected. They ensure that all of us can travel as well as enjoy consumer products from home and abroad. Close to half a million people are employed in the transportation industry, and their work has a tremendous impact on our nation, in terms of both the importance of their services and their influence on the country's gross domestic product.

As Chair of the Standing Senate Committee on Transport and Communications, I should like to extend my compliments to the truckers and bus drivers, the plane, train and ship crews, the couriers and pipeline workers who keep Canada and Canadians on the go. I wish the industry every success in its week-long series of celebrations.

ONTARIO PROVINCIAL ELECTION, 1999

CONGRATULATIONS TO PROGRESSIVE CONSERVATIVE PARTY ON WINNING SECOND TERM

Hon. Consiglio Di Nino: Honourable senators, when Senator Poulin stood to speak, I figured, "Great! A fine Ontario senator will get up and make the speech I want to make, congratulating Mike Harris on his decisive win on June 3."

Senator Lynch-Staunton: Another one is coming tomorrow!

Senator Di Nino: Yes. Tomorrow we will talk about New Brunswick.

Honourable senators, I should like to offer a few words of congratulations to Mike Harris and his team, as well as to all of

the members from all sides of the political spectrum elected in the Province of Ontario. As honourable senators know, on June 3, the Progressive Conservative Party of Ontario was re-elected with another majority, an accomplishment for which Mike Harris and his team should be proud.

I suppose Ontarians decided on June 3 that the program of renewal for the Ontario economy, the Ontario social structure, and the Ontario education and health care systems was not quite finished. What Mike Harris started he will finish in the next four years. That is why the ordinary people of Ontario decided to re-elect Mike Harris and his team for another term. I am sure that everyone here joins with me in congratulating Mr. Harris, the Progressive Conservative Party of Ontario, and all of the members who were elected. We wish them well.

AGRICULTURE AND AGRI-FOOD

CLOSURE OF RESEARCH STATIONS

Hon. Eugene Whelan: Honourable senators, I wish to express my concern over the decision made by the Government of the Canada to dismantle some of our Agriculture Canada research stations and leave the development of new crops to be funded by the private sector.

My concerns, that the multinationals would only wish to fund new products that could be protected by patent, or which would be genetically engineered so they would not reproduce themselves, forcing farmers to buy their seed every year, have been proven to be true by recent events.

My other concern, that these companies would put profit ahead of any concerns over human health or the environment, has also proven to be true.

We find that a new corn seed that is being marketed and that has been designed to resist insect pests is spreading its pollen over milkweed plants. This pollen is killing Monarch butterfly larvae and may drive them to extinction. Who can say it will not affect our insects, as well? The new Round-Up resistant canola is rapidly becoming a hard-to-kill weed and is passing this resistance to nearby fields of ordinary canola. These and other concerns in regard to genetically modified plants are causing our trading partners in the European Community not only to ban the import of our seed stocks, but also products made from genetically modified plants. In fact, the two largest corn purchasers in the world, Archer-Midland Company and A. E. Staley Manufacturing, will not purchase genetically modified corn that is not accepted in the European Community.

A recent article in the *Western Producer* shows that my fears and often-stated warnings about the dangers of dismantling the Agriculture Canada research stations are now being heard and recognized by other people. I hope that recognition has not come too late. The article states all the concerns I have been expressing for the last 10 years as we have moved from publicly funded research to that funded by multinational companies.

The article states that scientists are now forced to spend over one-third of their time or more in fund-raising instead of in research. Funds are more readily available for short-term projects that will quickly turn a profit. Basic research is a very hard sell.

Government laboratory equipment is wearing out and not being replaced as private companies will not fund what they do not own. They would rather mine the facilities for short-term gain.

These are warnings we cannot ignore. I strongly urge the federal government to move to immediately restore funding to our Agriculture Canada research stations and scientists before it is too late, so that all the expertise and world-class research facilities we built up over so many years will not be lost to us forever.

[Translation]

ROUTINE PROCEEDINGS

INTERNATIONAL POSITION IN COMMUNICATIONS

REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—CONFIRMATION OF TABLING—MOTION FOR CONSIDERATION

Hon. Marie-P. Poulin: Honourable senators, I wish to inform the Senate that pursuant to the order of reference adopted by the Senate on Tuesday, March 23, 1999, the thirteenth report of the Standing Senate Committee on Transport and Communications, entitled "Wired to Win: Canada's Positioning within the World's Technological Revolution" was deposited with the Clerk of the Senate on May 28, 1999.

Honourable senators, pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration on Wednesday, June 9, 1999.

On motion of Senator Poulin, report placed on Orders of the Day for Wednesday, June 9, 1999.

[English]

QUESTION PERIOD

INTERNATIONAL TRADE

FOREIGN PUBLISHER ADVERTISING SERVICES AGREEMENT—REQUEST FOR COPY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my questions are directed to the Leader of the Government in the Senate.

My first question relates to the agreement that was apparently signed on Friday between Canada and the United States affecting the matter of split-run magazines. Could the minister cause the same document to be tabled in this house?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I do not have the document to which the honourable senator refers. However, I shall attempt to obtain it and table it as soon as I receive it.

FOREIGN AFFAIRS

CONFLICT IN YUGOSLAVIA—PLANS FOR POST-CONFLICT RECONSTRUCTION—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Canadians have been viewing the developments in the Balkans in recent days. While there are signs of hope, there are many obstacles still standing in the way of a resolution to the tragedy, in particular the tragedy in Kosovo.

Many commentators are speaking now of reconstruction once the Albanians of Kosovo have been able to return to their country. Does the Government of Canada have a policy developed as to Canadian participation in the reconstruction, either in Kosovo or in Serbia?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, that question has been raised on a number of occasions. Canada recognizes that it will have obligations in that respect. There have been discussions with our NATO allies and with others.

Authorities in Canada are very cognizant of our responsibilities and will be full participants in any discussions and any actions that are taken in this regard.

Senator Kinsella: Honourable senators, is the minister able to inform this house as to whether or not the position of President Milosevic will be linked to Canadian aid for purposes of reconstruction?

Senator Graham: Honourable senators, that is a matter which will be dealt with at the time. As my honourable friend would know, the situation is evolving almost on an hourly basis. While I believe considerable headway has been made on the diplomatic front, the nose-to-nose military negotiations have not progressed as quickly as we would have liked.

However, the G-8 foreign ministers are meeting as we speak. Their major objective is to find an appropriate resolution that could be brought before the United Nations Security Council.

NATIONAL DEFENCE

CONFLICT IN YUGOSLAVIA—DEPLOYMENT OF TROOPS— ASSIGNMENT SHOULD PEACE NEGOTIATIONS FAIL— GOVERNMENT POSITION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my next question relates to that theatre in the world and is more of a military operation type of question.

It is my understanding, and perhaps the minister can correct me if my information is not accurate, that today significant numbers of Canadian Forces personnel have left Alberta destined for Thessalonika, Greece to await deployment on a peacekeeping basis in Kosovo.

Should the negotiations that are taking place on the border between Macedonia and Kosovo with the Yugoslav military authorities and representatives of the NATO military alliance concerning, I believe, the matter of the withdrawal of Yugoslav forces from Kosovo, not result in an agreement that will be accepted, in particular by NATO, will the Canadian troops who are in or on their way to that theatre be used for purposes other than peacekeeping?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, the main purpose of our troops being deployed is peacekeeping. There is no question that we have 285 Armed Forces personnel attached to the CF-18 squadron which has been engaged in the military activities already taking place in the Balkans. As I stated last week, the *Athabaskan* is in Adriatic waters with 200 Armed Forces personnel aboard. The shipments of the Coyotes, Bisons, and other ground forces equipment are expected to arrive in Greece today or tomorrow. The final group of 800 ground forces personnel was dispatched from Edmonton today. As a matter of fact, the Minister of National Defence was there to personally wish them well on their mission. We anticipate that all of our forces personnel who have been deployed will be ready, for whatever purpose, by the end of this week.

• (1620)

My honourable friend has suggested that they may be engaged in something other than a peacekeeping role. We hope and pray that that will not be the case.

ANSWER TO ORDER PAPER QUESTION TABLED

MILLENNIUM SCHOLARSHIP FOUNDATION— APPOINTMENT OF MR. PHIL FONTAINE TO BOARD

Hon. Sharon Carstairs (Deputy Leader of the Government): tabled the answer to question No. 144 on the Order Paper — by Senator Cochrane.

[Senator Graham]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to a group of military personnel in the gallery. They are a group from Kuwait who are here at the invitation of the Minister of National Defence. They are led by Lieutenant-Colonel Bugures.

On behalf of all honourable senators, I wish you welcome here to the Senate of Canada.

PRECLEARANCE BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to return Bill S-22, authorizing the United States to preclear travellers and goods in Canada for entry in the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health, and to acquaint the Senate that they have passed this bill without amendment.

[Translation]

CARRIAGE BY AIR ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-23, to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, and acquainting the Senate that they had passed the bill without amendment.

[English]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): In order that honourable senators be made aware of what will transpire today, it has been agreed that the Senate will not see the clock at six o'clock and will continue on past that hour. Dinner will be served in the reading room. It will be brought in at 5:30 p.m.

The Hon. the Speaker: Honourable senators, is it agreed that I shall not see the clock at six o'clock?

Hon. Senators: Agreed.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there is also agreement that the Standing Senate Committee on Social Affairs, Science and Technology, which had called a meeting for six o'clock today, will be allowed to sit even though the Senate will be sitting.

The Hon. the Speaker: Honourable senators, is it agreed that the Social Affairs, Science and Technology Committee will have permission to sit even though the Senate may then be sitting?

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

ALLOTMENT OF TIME FOR DEBATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, some discussions took place over the weekend and again today with respect to the time allocation procedure on Bill C-55.

Therefore, I move, pursuant to rule 38:

That, in relation to Bill C-55, respecting advertising services provided by foreign periodical publishers, no later than 4:15 p.m. tomorrow, Tuesday, June 8, 1999, any proceeding before the Senate shall be interrupted and all questions necessary to dispose of all remaining stages of the Bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred; and

That the bells to call in the Senators be sounded for fifteen minutes so that the vote takes place at 4:30 p.m..

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

MOTION FOR ALLOTMENT OF TIME FOR DEBATE WITHDRAWN

On the Order:

That, pursuant to Rule 39, not more than a further six hours of debate be allocated to dispose of both the report stage and third reading of Bill C-55, An Act respecting advertising services supplied by foreign periodical publishers;

That when debate comes to an end or when the time provided for the consideration of all stages of the bill has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate; and put forthwith and successively every question necessary to dispose of all remaining stages of the bill; and

That any recorded vote or votes on the said question be taken in accordance with the provisions of Rule 39(4).

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, may I have leave to withdraw the time allocation motion currently standing in my name?

The Hon. the Speaker: Is leave granted, honourable senators, to withdraw the time allocation motion?

Hon. Senators: Agreed.

Motion withdrawn.

MOTION TO ADOPT REPORT OF COMMITTEE—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Callbeck, for the adoption of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.

Hon. James F. Kelleher: Honourable senators, as a former minister for international trade, I am deeply concerned about the way the Government of Canada has handled Bill C-55, the Foreign Publishers Advertising Services Act, and the split-run magazine dispute. I believe that the split-run magazine saga demonstrates that this government has failed to effectively manage Canada's international trade disputes.

Before we deal with Bill C-55's last-minute amendments, I think it is important that we all understand what went wrong with the dispute that gave rise to these amendments. After discussing what went wrong, I should like to conclude my remarks with some observations on how these disputes must be better managed in the future and how Canada must come to grips with cultural trade issues before the next round of World Trade Organization negotiations begins next year.

Honourable senators, there are two main reasons why the Chrétien government has a poor track record in international trade. First, the Prime Minister's international trade policy focuses mainly on international trade development junkets that feature attractive photo opportunities. However, the split-run magazine dispute and the upcoming WTO negotiations demonstrate that flashy trade development junkets are not enough. As a major trading nation, Canada needs a Prime Minister who has what it takes to manage trade disputes and

complex, international trade negotiations and policy issues. By allowing his Minister for International Trade and his Minister of Canadian Heritage to openly squabble over the split-run magazine issue for the last few months, Prime Minister Chrétien has once again shown that he lacks leadership.

The second reason that the Liberals have such a bad win-loss record is that they have chosen to politicize international trade disputes, rather than manage them in accordance with Canada's national interests and our treaty rights and obligations.

I think it is important to remember that Bill C-55 was the Government of Canada's response to two cases that it lost before the WTO. The first decision was announced over two years ago on March 14, 1997, when a WTO panel ruled against three of the four Canadian policies in dispute. The three policies were Canada's 1965 ban on imports of magazines with advertising directed at Canadians, the 1995 excise tax on split-run magazines and discriminatory postal rates for imported magazines.

Then on June 30, 1997, after the Chrétien government appealed the WTO panel report, the WTO's appellate body not only confirmed that these three programs violated Canada's treaty obligations, it also ruled against Canada's discriminatory postal subsidy program for Canadian-produced magazines. In other words, after losing three out of four points before the WTO panel, the Government of Canada proceeded to appeal and lost four out of four.

Honourable senators, why did this happen? I believe it happened for the same reason that Canada has recently lost a string of WTO cases, including the WTO ruling against the Technology Partnerships Canada program's support for regional aircraft and the WTO ruling against Canada's dairy policies.

The reason the Government of Canada has a poor WTO dispute track record is that the Liberals have politicized the process. Instead of heeding the advice of their international trade lawyers and experts, this government launches WTO cases and appeals for political purposes.

For example, the April 19, 1999 edition of the *National Post* stated that the federal government is appealing the WTO ruling against the Technology Partnerships Canada program despite the fact that senior Canadian government officials advised cabinet that success is not at all likely.

Likewise, last March, the *National Post* reported that:

Federal trade lawyers say their advice is routinely ignored in favour of political considerations when Canada decides what cases to take before international bodies.

The article also stated:

"Having a friend in the Prime Minister's Office is far more important than having a good legal case," said one senior official in the trade law division of the Department of Foreign Affairs and International Trade.

"The issue of whether we have a good case or not has until now not been very important," added another.

The bottom line is that this government lost the magazine and aircraft subsidies and dairy WTO disputes because the Prime Minister is more interested in trying to score short-term political points than in complying with Canada's international treaty obligations.

As a result of the two WTO magazine cases, the government terminated its 1965 ban on split-run imports, eliminated the 1995 excise tax, changed its discriminatory magazine postal rates and postal subsidies, and introduced Bill C-55.

Given that this legislation was the result of the government's two defeats, it was always clear that Bill C-55's compliance with Canada's international trade treaties would be a critically important issue.

Although the Minister of Canadian Heritage assured everyone that Bill C-55 fully complied with Canada's WTO and NAFTA obligations, the government has now agreed to make substantial changes to the legislation which the Canadian magazine industry has called "a cave-in" to American pressure.

Honourable senators, it is clear that one of two things has happened. Either the original Bill C-55 complied with Canada's international trade treaty obligations and the government caved in, or the legislation violated Canada's free trade obligations and the government staged this "American bashing" dispute for political purposes.

When the Minister of Canadian Heritage appeared before the Standing Senate Committee on Transport and Communications on April 13, I specifically asked her whether the Government of Canada had obtained a legal opinion that established that Bill C-55 was in full compliance with Canada's international trade treaty obligations, including our obligations under the WTO and NAFTA. She responded yes.

If this is true, then the Government of Canada has bowed to American pressure, rather than maintaining Canada's international trade rights. If this is the case, then there is something wrong with this government's international trade policy. There is no point in signing treaties if Canada is not prepared to enforce its rights. On the other hand, if Bill C-55's compliance with international trade treaty obligations was not clearly established, then this government has created several months of costly job and investment uncertainty so that it could pretend that it was standing up to the Americans and trying to score some short-term political points before it ultimately caved in.

Honourable senators, three things are now clear: First, the Government of Canada caved in and every one knows it. The Canadian magazine industry has made clear in no uncertain terms that they are not happy with the proposed amendments to Bill C-55. Although the government has attempted to claim victory and argued that the American market access is *de minimis*, everyone knows that millions of dollars of new subsidies would not be necessary if Canada had really won.

The second thing that is clear is that this government forced several other Canadian industries to pay the price for this political charade. Bill C-55's list of innocent victims includes the Canadian steel, textile, plastic, forestry and clothing industries.

As the chief economist for the Alliance of Manufacturers and Exporters noted after the deal was announced:

...the threat of U.S. retaliation alone has already had a chilling effect on trade and investment activity.

The third thing that is clear is that the Government of Canada has signed an agreement that is not clear. For example, the June 3 exchange of letters refers to a "substantial" level of original editorial content. However, Canada's Investment Canada Review Guidelines requires a "majority" of original editorial content. If the agreement was meant to require a "majority" of Canadian content, why did the government agree to sign a deal that does not use that language? I am concerned that this inconsistency between the agreement and the Investment Canada Review Guidelines may give rise to further disputes.

In addition to this inconsistency and potential for further disputes, the agreement specifies that it is without prejudice to either party's arguments regarding the nature of the Foreign Publishers Advertising Services Act, the Investment Canada Act or the Income Tax Act in the WTO or under NAFTA. Furthermore, either party may withdraw from the agreement by giving 90 days' written notice. Again, it is clear that Bill C-55 may not be the final word on this issue.

There also appears to be disagreement over whether American firms will have access to the new subsidies. Nor is it clear how much these subsidies will cost or how they will be funded. These issues must be clarified now before the bill is passed.

I should like to conclude by again saying that I am deeply concerned about how Canada's international trade disputes and negotiations are being mismanaged. They are being mismanaged because this government is fixated on generating photo opportunities with its trade development junkets. However, the limited success of recent trips shows that the Prime Minister's Team Canada veneer is starting to wear thin.

• (1640)

Honourable senators, Canada's international trade disputes and negotiations are also being mismanaged due to this government's tendency to politicize issues, even when this is contrary to Canada's national interests. Since this government was elected, cultural trade disputes have been arising with alarming regularity. In 1995, the United States targeted a section 301 and a CRTC cable licensing decision regarding country music television. In 1998, the European Union requested WTO consultations in respect of Canada's measures affecting film distribution services. Notwithstanding the Liberal's attempt to portray cultural trade disputes as Canada-U.S. issues, this European case demonstrated that the Americans are not the only ones who are targeting this government's cultural policies. Today we are dealing with legislation that resulted from two adverse dispute panel findings flowing from the WTO agreements this government signed in 1994.

These three disputes demonstrate that the government's strategy of pursuing so-called "cultural exemptions" is not protecting Canada's culture. Next year, Canada will be part of the WTO negotiations on audiovisual services which could have a profound effect on Canadian cultural industries.

So far, the government has not told Canadians how it will ensure that these upcoming negotiations will not give rise to more cultural disputes. Although the Minister of Canadian Heritage has talked about a new cultural instrument, the government has no game plan to implement this new strategy before the WTO audiovisual services negotiations begin in a few months.

The bottom line is that Bill C-55 is not an isolated incident. This proposed legislation and the growing number of cultural trade disputes are the result of the Prime Minister's failure to manage Canada's international trade policy.

Honourable senators, since I cannot condone an international trade policy and legislation that is contrary to Canada's national interests, I will vote against Bill C-55.

Hon. Consiglio Di Nino: Honourable senators, I had originally not intended to speak on this bill, but recent events have led me to a change of heart. I will not speak on the merits of the legislation since others on both sides have discussed the subject amply and eloquently.

However, I would remind all of us of the damage that kowtowing to the PMO and the leadership in the other place is inflicting on the Parliament of Canada, particularly the Senate. Every day, we are the target of indignities and insults directed at us by the media and many Canadians, perhaps the majority. We must ask ourselves how much of this abuse is self-inflicted. How many times do we do it to ourselves? Time and again, we allow ourselves to be ridden over roughshod by the PMO. We are now at it again. This is what I call self-flagellation.

Let us consider some of the facts. Even as Bill C-55 was moving toward third reading in the House of Commons, U.S. trade representatives were telling the media that everything was on the table and that "nothing is excluded."

In *The London Free Press* of March 17, 1999, we find the following statement:

Even as the bill was receiving third and final reading...Copps was conceding outside Parliament that she was "open to discussion, and amendments" about the bill.

In other words, the government allowed this bill to pass the other place, despite the fact that senior ministers had admitted publicly that it would never become law as adopted by that chamber. So much for the respect of the members of the House of Commons.

When the bill came to this chamber, we were asked to vote on its principle. We were asked to vote on the principle of a bill that everyone knew was going to change — and has indeed changed drastically — once the government had finished making the concessions demanded by the Americans. We wonder why people dismiss us as a mere rubber stamp.

Now we are expected to pass this bill which contains amendments, proposed not by members of the other place, but by American trade representatives.

Honourable senators, who exactly is in charge of Canadian legislation? Is it the PMO; is it the cabinet; is it the House of Commons; is it the Senate; or is it the American commerce department?

A while ago, Senator Lynch-Staunton referred to his fear of senators becoming a party to their own irrelevance as parliamentarians. I, as you know, shared his concern. Others in this chamber, including myself, have lamented the fact that this place is too often little more than a revolving door for government legislation. As I just mentioned, Bill C-55 is a perfect example of this problem.

On March 15, 1999, *The Toronto Star*, the government's private propaganda tool, at least in the Toronto area, noted that continuing to negotiate with the Americans while this bill was passing through Parliament reduced the different votes to a meaningless sideshow; in other words, a farce. Included in the article was the comment that Parliament deserves to be treated with more respect.

Honourable senators, so do the Canadian people.

I could not have said it better myself.

Unless we have the courage to do our job, the public's confidence in this chamber will only further erode. We must stand up to this continuing and growing abuse and disrespect for Parliament.

I admit that things were similar, albeit not quite as blatant and cynical, with the previous government. This is not a partisan issue. It is an issue of sovereignty. This is about integrity and respect for Parliament and parliamentarians. Our job here is to protect the interests of Canada. Lord knows that the House of Commons has not been doing such a good job.

The Senate and the House of Commons have clearly defined roles to play. Among the primary roles, if not the primary role, is to properly and fairly discuss and debate national issues. We are here to debate legislation among ourselves, not with the American trade representatives or functionaries from the PMO. This government seems to have forgotten that.

The PMO has hijacked the parliamentary process and the public policy process as well. It has bypassed the rules and thumbed its nose at them in order to cut a deal and save face. Sadly, honourable senators, the Liberal majority in this place is set to endorse such behaviour. It is ready to abdicate its responsibility to the democratic process and force this chamber to pass this bill. It is ready to sanction the entire illegitimate PMO-orchestrated process that has resulted in the bill we have before us today, and I fear that no one opposite will say "boo." Given this, is it any wonder that the public has so little respect for what we do?

What is happening here, with the full connivance of the Prime Minister's Office, is wrong. It is wrong. Every one of us present

here knows full well that what we are about to do makes a mockery of the rules of Parliament and, ultimately, of us for allowing it to occur once again.

Hon. David Tkachuk: Honourable senators, I intend to make only a few points on the substance of the bill and the tactics of the Liberals with regard to what they told the public, what they told members, and what they really intended.

I was at a short, six-hour farm meeting with Senator Andreychuk and Senator Gustafson last Saturday in Regina. As we all know, the current farm crisis was known to the government a year and a half ago when commodity prices dropped some 60 per cent in 1996. Nothing was done. Then the AIDA program was put together quickly because the crisis did not go away as the Liberals, using the Mackenzie King tactic, thought it would.

The AIDA program is so flawed as to be unbelievable. Just to request aid, a farmer must fill out a 20-page document that takes a chartered accountant six hours to do. The farmer's entire history is requested.

I mention this because that program was set up in response to a real crisis. On this issue of magazines and advertising, which as it turns out was never a crisis, the former deputy prime minister of Canada responded extremely quickly. We will see money pouring out of the coffers of the government to those companies immediately, lest they go broke. Meanwhile, a disaster area should be declared in southeastern Saskatchewan and southwestern Manitoba. People are losing their homes and farms, and we are debating a bill in this place that will send cheques to Maclean Hunter and Telemedia.

• (1650)

That is the kind of priority that we have in this proposed legislation. It is no wonder that the people of Canada are saying, "Be damned; a pox on all your houses!" That is the agenda of the members opposite.

In committee, the Honourable Senator Lynch-Staunton questioned the minister's intent as to why this legislation was moving forward. He suggested that perhaps there was another reason for it. The minister said that her commitment, as well as that of the Prime Minister and the government, was to resolve this issue. The minister said that all her cards were on the table, face up. She said that she had nothing to hide, and would play no games.

Senator Di Nino: Remember the GST?

Senator Tkachuk: This is the Liberals' way of not telling the truth with a straight face.

Senator Lynch-Staunton went further, and got to the heart of the matter. He offered the minister an opportunity to explain. He said that he had heard that negotiations in Washington could lead to amendments of such a nature that the bill would be quite different from that which we have before us now. He made the question quite specific.

In response to his question, Minister Copps indicated:

However, at no time would we ask you to take a position on a bill that would be somehow circumvented by behind-the-scenes discussions and negotiations. That is not our intent.

Senator Lynch-Staunton said: "That was not my question, either." He pressed her again. The minister said that the bill in its present form was the best solution and:

...that if the Americans were to introduce suggestions that they felt would be in keeping with the spirit of the bill, we would be prepared to entertain them. Any entertainment of such changes would need to be approved by both the Senate and the House of Commons, of course. We are not looking for a way to do an end run around parliamentary institutions.

This is the minister in charge of the bill speaking.

Senator Di Nino: You believe her?

Senator Tkachuk: I never did. Then, weeks later, she comes back. In her last appearance before the committee, the minister said:

Honourable senators, when I appeared before this committee, I indicated that I would play no games. This is why I can assure you that Bill C-55 is still the best proposal that we have for our Canadian magazines. That being said, we are still meeting with our American friends. If our friends south of the border believe that they have a better proposal, and we deem that it meets the tests that I have laid before you, we will analyze it. Should that be the case, and honourable senators allow me to appear before them again, I will come before this committee and present any such proposals myself for your consideration.

She should come before Committee of the Whole and explain herself, as she promised to do. However, we know from her testimony that what she says and what she does are two different things.

The minister did this to her own colleagues. She may have done it to her own friends in caucus, for all I know. She probably did it to the members here. She did it to them and she did it to us. This woman cannot be trusted. This woman should not be trusted. We should defeat this bill. We should definitely not accept her amendments because they are not properly presented in this place. She deceived her colleagues in the other place.

I know I am on slippery ground when I use words such as those; however, at the same time, I used only her words. I did not make this up. Honourable senators can deduce from that what they may.

Honourable senators, I never liked this bill. I never liked Sheila Copps. I do not like the Liberal government. Therefore,

any bill they put before us, I am opposed to as a matter of principle until it is proven otherwise. The minister has not succeeded in convincing me of the validity of this proposed legislation.

Senator Taylor: What is your problem?

Senator Tkachuk: Judgment will be passed on your problem in New Brunswick tonight. Perhaps judgement will also be passed in a couple of years on what we see as our problem as well.

Senator Di Nino: If I may ask a question of my colleague, I should like to know whether this is the same bill that was presented for second reading. The point is that we approved, in principle, a particular piece of legislation. In your opinion, is this still the same bill that we passed at second reading?

Senator Tkachuk: No, it is not. I reiterate that it was not Senator Lynch-Staunton nor the other members of the committee who were talking about the fact that if amendments were made, they had to be presented in the other place. It was the minister herself.

Throughout the committee hearings, we heard from our honourable colleagues, both in this chamber and in committee, that no negotiations were taking place. They kept using the word "discussions." That was a cute way of saying that there were negotiations. However, they were denying that anything was happening.

Although this bill bans the sale of advertising, the amendments allow the sale of advertising. To me, this is a different bill. I stand by that. I think all honourable colleagues feel the same way. There is no way that we can get around that intent.

Hon. Serge Joyal: Honourable senators, it is a privilege to join the debate on Bill C-55. A number of honourable colleagues have discussed the fine points of this important legislation. I should like to discuss the larger picture. It is essential that we not lose sight of what is at stake in this bill.

Fundamentally, Bill C-55 is about ensuring the future of an essential segment of Canadian culture in the new global village. It does not try to legislate Canadian culture; no government has ever successfully legislated culture. Rather, Bill C-55 aims to establish the conditions necessary in which Canadian culture may thrive.

• (1700)

During the second reading debate on this bill, some honourable senators expressed difficulty with the expression "Canadian culture" because it means different things to different people. What some see as a weakness, I consider to be a strength. I believe that one of Canada's great achievements, one of our greatest contributions to the world, is the fact that Canadian culture is not monolithic.

In his recent book, *Reflections of a Siamese Twin: Canada at the End of the Twentieth Century*, John Ralston Saul wrote:

All of this reinforces my sense that the quality of our culture is the product of its complexity. It is the drama of that complexity which pushes us on. It was those tensions that made Montreal the centre of the first explosion of creativity in both languages. A racial and cultural mix without a depressing drive towards sameness is a great cultural strength. And it is that same tension that has brought Toronto alive over the last three decades.

Honourable senators, as a dynamic, diverse cultural mix creates the best in Canadian culture. I believe the multiplicity of strong national cultures is the hope for greatness in humanity.

This is a concept that the United States does not spontaneously understand. The greatest battle fought these past few months over Bill C-55 was not about whether to allow an extra percentage point in the percentage of exemption; the greatest battle was about explaining to our American friends that culture is not just a commodity, like running shoes or computers. It is the lifeblood of a nation, the window to our soul. It is our moment of definition. It is the standard we set for ourselves, and it is our challenge to ourselves to strive for excellence in meeting those standards.

It is ironic that our American neighbour, a staunch crusader against monopolies in the market-place, does not understand our dismay at the growing dominance of American culture throughout the world. In the commercial market-place, as we all know, monopolies are a bad thing. Monopolies produce inferior products and services at a higher cost. They stifle innovation and resist dynamic change. A cultural monopoly is even worse. One idea or set of ideas dominates unchallenged. Cultural life is impoverished, uncreative, dull, and the vibrant colours of the world are lost in a haze of grey.

However, honourable senators, we have made an important step in this battle. The United States has accepted, as least for magazines, that countries can take steps to protect their national culture without threatening the fabric of free trade, but this was a hard-fought battle, and it was not always pretty.

I was personally very distressed, as was Senator Kinsella, that one of the first reactions in the United States to the tabling of Bill C-55 was to launch a vicious personal attack on the Minister of Canadian Heritage. To this date, as far as I am aware, no U.S. official has denounced that attack. That is not how we do politics in Canada, and that is not part of our political culture.

Our two countries are parties to several agreements that set out carefully negotiated terms to resolve disputes. Instead of following agreed procedures to deal with Bill C-55, the United States resorted to bully tactics, threatening billions of dollars in illegal unilateral retaliation, targeting particularly vulnerable sectors. Indeed, the threatened retaliation itself became personal, as did the attack directed against the Minister of Canadian Heritage.

Americans often seem to pick and choose whether to respect international trade law. For example, dispute settlement panels instituted under the GATT, and before the WTO, ruled against the United States and in favour of Canada in the softwood

lumber cases and the so-called "Beer II" case. The United States refused to give effect to those decisions. In the Beer II case, very few of the offending measures have been eliminated. In fact, new, similarly trade-distorting measures have been implemented by many states.

More recently, a group of U.S. congressmen and senators reintroduced a bill to protect the U.S. suit industry. Why? It is because since 1992, when NAFTA entered into force giving Canadians duty-free access to the market for wool products, Canadian exports of high-end wool suits have soared. This is not free trade, honourable senators — it is "me" trade. The United States seems to take the position that free trade is fine, as long as they get free access and others pay the price.

Historically, Canadian relations with the United States have always been delicate. We have long felt vulnerable to being absorbed by our neighbour, and this is not surprising. From the very beginning, the United States expressed designs upon Canada.

Initially, they tried their own not-so-gentle art of persuasion. In 1775, 300 copies of a letter addressed to the people of Canada by no less a personage than George Washington himself were distributed in the province of Quebec exhorting the people of Canada to join the fight against Great Britain. Let me read to you from that letter which stated:

We look with pleasure to a day, in the not too distant future (we hope) when all inhabitants of America will feel as one and taste the sweetness of a free government.

The letter continues, informing the people of Canada that the United States Congress has graciously sent troops to Canada "to kindle and put to action the liberal sentiments that you have revealed."

Needless to say, the people of Canada did not receive this letter with the joy and gratitude anticipated by General Washington.

A few months later, another letter was sent — this time from the American Congress, signed by John Hancock. Among others it contained the following statement:

By this time, you must be persuaded that nothing is more appropriate in ensuring our interests in your liberty than to take effective measures to combine our forces...

This letter, too, failed to convince Canadians to embrace the cause of the American revolution.

[Translation]

Honourable senators, allow me to point out in passing that Jean-Baptiste Joyal, the brother of my ancestor, decided to join up with the American invaders at the Canadian border and to lead them up Quebec City, for the assault which was supposed to let the Americans take that city. As you know, unfortunately for them, the Americans met with a resounding defeat and my ancestor had to seek refuge in the United States.

There he received a pension awarded by the American Senate, as well as vast stretches of land in Vermont, very near the border with Canada. Today, if you visit the legislative building at Montpelier, Vermont, you will see a plaque at the entrance thanking Jean-Baptiste Joyal for loyal services rendered to the U.S. Army.

[English]

You will notice that today he is American, and today I am French Canadian. That is why, through the centuries, we have developed different views on Bill C-55 — the American branch of our family has one view, and the Canadian branch has another.

The War of 1812 saw a military attempt to take over Canada. Colonel de Salaberry, with the strong support of a French Canadian battalion, defeated the Americans at Châteauguay, as did J.W. Morrison at Chrysler Farm in Ontario.

Later — indeed, right around the time that we were broaching Confederation — there were American initiatives to launch a constitutional absorption of Canada, in fact, to take over the entire continent. In 1866, General N.P. Banks of Massachusetts introduced a bill in Congress providing for “the admission of the States of Nova Scotia, New Brunswick, Canada East and Canada West, and for the organization of the Territories of Selkirk, Saskatchewan and Columbia.”

In 1867, when U.S. Secretary of State William Seward purchased Alaska from Russia for \$7.2 million, he described the event as, “a visible step in the occupation of the whole North American continent.”

Today, Canada is secure from American designs of military or political absorption. The threat we face today is different, but no less pervasive. What is at issue is nothing less than our national identity. There is no longer any need to occupy our country by military force. The question now is: Will we allow them to occupy our minds and our souls?

We are different from Americans. Our values, our approaches to issues both domestic and international, our views of the world are different from their views. We respect their achievements and we share a commitment to peace and freedom, but we are not the same. Their values are individualism, liberty and private property. Our values are sharing, equality and opportunity.

U.S. Ambassador to Canada Gordon Giffin was reported in *Maclean's* in March 1999 as suggesting “there is no such thing as a distinct Canadian culture.” Ambassador Giffin may have spent much of his youth here when his father was transferred to Canada as an employee of an American firm, however, that statement reveals his American roots. He just does not get it.

• (1710)

Yes, like the United States, we encourage private enterprise to succeed. Unlike the United States, one of the roles of our government is to offset inequalities that the free market can bring. We have written into our Constitution, and we did that in

1982, that our federal and provincial governments are committed to promoting equal opportunities for the well-being of Canadians, and furthering economic development to reduce disparity in opportunities. We have guaranteed equality of men and women, and we have adopted a clause of equality to protect all minorities.

Our publicly funded universal health care system was recently described as “our proudest achievement.” No Canadian need worry about medical bills ever, as stated by the Prime Minister. This is distinctly Canadian and reflects some of our most cherished national values.

Americans have a constitutional right to own arms. Three weeks ago, we were reminded of that fact by actress Sharon Stone who led a movement, the aim of which is to convince Americans to renounce that constitutional right.

In contrast, some Americans openly wonder whether their culture is best defined by violence. Gregory Gibson is an American whose son was murdered at the age of 18. On April 23, Mr. Gibson, in an article in *The New York Times*, entitled “Our Violent Inner Landscape,” in which he said that he himself had violence “hard-wired” into him, wrote:

I've got a feeling this is not unique to me. I've got a feeling this problem is embedded in our culture, way beyond bad movies and cheap guns. It's as transparent as the air we breathe. It's in our history. It's in the myths we tell ourselves about ourselves. If we see it at all, we celebrate it. We relax to it. We've made industries of it.

Honourable senators, indeed, our two cultures are very different. Canadians know that we are distinct from our American friends. Our values, our approaches to issues, large and small, are different. For instance, our political culture is drastically different from the one of the United States. Big money, big lobbies, and personal attacks are not part of our shared political values.

I am concerned that the United States does not fully appreciate the importance of these differences. American history correctly teaches them the glory of their democratic achievements, but perhaps fails to convey that their brand of democracy is but one in a long, rich history reaching back to antiquity. There are a myriad of ways in which a country can embrace freedom. We are no less democratic or free because we are different. Moreover, I believe it is in our American friends' interests that we are and that we remain different.

The global forces of homogenization are strong, propelled by the overwhelming crush of Hollywood, television, and now the Internet, but at what cost? Throughout my life, one of my greatest joys has been exploring different cultures, considering new ideas, seeking to understand other people's unique perspective on the world. This is the great richness of our world. From a cacophonous Tower of Babel, humanity has created a vibrant tapestry of diverse nations, people and cultures. I celebrate this diversity, and I fear its loss.

In a recent article in *Le Figaro*, Georges Lochak warned against the increasing domination of English language over other languages, saying:

By losing our national languages, we are moving towards a form of thinking that is narrow and monotonous, based almost entirely on stereotypes, and in fact resembles no thinking at all.

I believe the same concern exists for the loss of national cultures. The wealth we risk losing could never be compensated by any commercial gains. David Cronenberg, the Canadian filmmaker, was recently interviewed about his latest film. He spoke about the powerful forces of homogenization that he sees in his own industry. He said:

It has become very difficult to make films that deviate from the Hollywood mold. I fear that one day, the films available will be Hollywood films, and that I will be speaking to a public that has no frame of reference other than Hollywood to appreciate my film.

Honourable senators, I do not wish to see a day when Canadians have no other frame of reference than ideas they read and hear from the United States. There is another equally grave but even more immediate risk, namely, that of regional and ethnic backlashes against the inexorable march of globalization. Living in the shadow of Kosovo, we know the terrible price that ethnic clashes can exact.

Jeffrey Garten, former under-secretary of international trade in the first Clinton administration and now leader of the Yale School of Management, recently cautioned his country, his fellow citizens in the United States, against extending the crusade for free trade into the cultural arena. After noting, among other things, Canada's move, with 19 other countries, to assert cultural independence from the United States, he wrote:

The U.S. should do more than heed these warnings; it should recognize that strong cultures abroad are in America's self-interest. Amid the disorientation that comes with globalization, countries need cohesive national communities grounded in history and tradition. Only with these in place can they unite in the tough decisions necessary to building modern societies. If societies feel under assault, insecurities will be magnified, leading to policy paralysis, strident nationalism, and anti-Americanism.

With satellites and the Internet, the spread of American culture cannot be stopped, nor should it. But Corporate America and Washington could lessen U.S. dominance by encouraging cultural diversity around the globe.

Honourable senators, that is a quote from an article headed: "Cultural Imperialism, It's no Joke," by Jeffrey Garten as printed in *Business Week* of November 30, 1998.

I have confidence, honourable senators, that our magazine industry will develop and, indeed, continue to thrive under the

amended Bill C-55. I have confidence in the force of Canadian ideas, and I fervently hope that the agreement between Canada and the United States over this bill marks the dawning of a different era, one in which strong national cultures can continue to be nurtured and flourish, making the new global village of the 21st century a very interesting place.

Hon. John B. Stewart: Honourable senators, Senator Joyal cited Canada's health care system as leading evidence of the difference between attitudes to domestic public policy in Canada and the United States. My question to him is the following: Is the honourable senator confident that our health care system will maintain its integrity? Will it survive, in view of the increasing integration of the Canadian economy with that of the United States?

As evidence of this increasing integration, I cite the pressure to adopt a common currency, which was discussed a few weeks ago in our Standing Senate Committee on Banking, Trade and Commerce, and also the demand that Canada's tax regime be virtually the same as that in the United States so as not to cause what is called a "brain drain" from Canada to the United States. In view of this economic integration, is it possible that we can maintain as distinctive a policy as our health care system embodies?

• (1720)

Senator Joyal: The honourable senator's question is put in broader terms. In terms of people, Canada has but 10 per cent of the population of the United States. The challenge for a country such as ours is to maintain the fundamental choices of politics that are embedded in our national sovereignty.

Together with some of my colleagues on both sides of the house, I attended the meeting held by the Standing Senate Committee on Banking, Trade and Commerce on the future of a common currency. I participated in the free trade debate, as Senator Kelleher mentioned in his speech, in 1988, when the questions raised about the implications of the choice we were making concerning economic integration was the main preoccupation of Canadians. The assumption at the time was that economic integration brings political integration as well as social integration.

There is no doubt that we are in a very peculiar position which is contrary to that of European countries, where the diversity of systems is scattered into a large mosaic of long, historical identity. As I outlined briefly in my remarks, we have lived continuously in the shade of a giant that has always endeavoured to develop and grow our market as a part of theirs. The fight on Bill C-55 is an illustration that, for them, culture does not exist.

Some years ago in Washington, I participated in a panel under the auspices of the Canadian Embassy on the future of international cultural policy, in the wake of a report by a joint committee of the House and the Senate on the review of such a policy. Many senators whom I see today in this chamber participated on that panel. It is certainly something about which, on a daily basis, we need to remind the Americans.

On the cultural side, what I see as a lesson of hope and calculated optimism is the fact that the Minister of Canadian Heritage shares the same concern with 19 other countries.

[Translation]

It is not only Canada.

[English]

It is not only we who are the neighbour who disturbs. The defence of cultural sovereignty is a preoccupation that has spread around the world. As I said, there are even leading American minds who believe that the Americans should recognize that point.

If the Americans want to push for a larger multilateral agreement at the WTO, they will have to deal with the concerns of cultural sovereignty and identity.

The honourable senator mentioned the health care system. In response, I would mention, in general, the social system, which refers not only to health but the way in which we define our responsibility to the citizens who need community support. We must ensure that when it comes time for our citizens to retire, there will be in place a system to continue the fundamental elements of human dignity. We feel that this is part of the responsibility enshrined in our Constitution. It is not a government concern. It is something that we included in our Constitution when we established clearly the equality clause and the equal opportunity clause some 17 years ago.

We must ensure that Canadians continue to be well aware that as long as we live in a free and open market, we have at the same time to be conscious of where the ball stops, as my father, who was a professional baseball player, used to say. The Senate has a role in that regard as one of the two chambers of Parliament. We have the responsibility of reviewing the international agreements into which Canada enters to ensure that those concerns are shared amongst ourselves, with members of the other place, and as well with all Canadians. Now that the finances of the government are in better shape, it will be easier for us to fulfil that obligation. However, it is not something that we should take for granted in the future.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to ask for leave to return to the subject-matter of Bill C-55 and the report. It seems that we have strayed very much from that.

I have a question for Senator Joyal, if he would like to get back to the subject-matter. Has the honourable senator been privy to the letters that have been exchanged between the United States trade representative and our ambassador to the United States, which I believe were dated June 3, and are considered an agreement and from which flow the amendments included in the report? I hope those letters will be tabled so that we can all have copies of them. Is he satisfied that Canada's interests are well protected by that agreement?

Senator Joyal: Honourable senators, I have not seen the letters. The document to which I was given access is the

document published on May 26, 1999, from the office of the United States Trade Representative, Executive Office of the President, under number 20508. Of course, this is a public document. It is the only document to which I had access when I was preparing my notes for this debate today. I was not privy to the letter which the honourable senator mentions.

Senator Lynch-Staunton: Does the honourable senator not have confirmation that what was in the May 26 press release of the United States Trade Representative and the equivalent information package of the Canadian government are well reflected in the letters of exchange between the ambassador and the United States trade representative?

I am not participating in the debate but, rather, reflecting on the fact that we are discussing amendments which are based on agreements that are not before us.

Senator Joyal: No, I have not seen those letters.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I will proceed with my participation in the debate on the matter which is before us, namely, the report of the Standing Senate Committee on Transport and Communications. As honourable senators know, that report was tabled in the chamber, and Senator Carstairs moved the adoption of the report which contains amendments. Thus, honourable senators, I invite you to reflect and give some focus to the specificity of this report and the amendments to Bill C-55 contained therein.

Honourable senators, I submit that the report before us is defective in at least five critical ways. First, the committee failed to hold hearings and hear witnesses on Bill C-55 after it was fundamentally changed by the amendments which Minister Copps spoke to at the last meeting of the committee.

• (1730)

Second, the committee failed to secure a copy of the draft agreement between Canada and the United States, upon which agreement the amendments were based. In the exchange a moment ago between the Honourable Senator Lynch-Staunton and the Honourable Senator Joyal, Senator Joyal advised us that he, like all members of the committee, had not seen a draft copy of this agreement, even though it was on the basis of this agreement that amendments were adopted by the committee and tabled before us.

Third, honourable senators, the committee failed to examine the implications of these amendments on permitting interference of freedom of expression by government regulation.

Fourth, the committee failed to investigate the amendments in a thoughtful and deliberate fashion but, rather, moved into clause-by-clause study of the bill moments after the amendments were addressed by Minister Copps. Minister Copps speaks to these amendments, then leaves. Immediately thereafter, the committee goes into clause-by-clause study of the bill, at which time the amendments are brought forward.

Fifth, honourable senators, the committee failed to explore —

The Hon. the Speaker: Honourable senators, order! I invite honourable senators who must have conversations to conduct them outside the chamber so that we may hear the speaker.

Please continue, Honourable Senator Kinsella.

Senator Kinsella: Honourable senators, the committee also failed to explore the off-set publishers fund, which the government spokespersons have stated is designed to provide support to Canadian publishers who will be hurt by the 18 per cent of Canadian magazine advertisements going to United States publications.

Honourable senators, why, we ask, did the committee not call representatives, for example, of the Canadian publishers group, to express their views on this radically changed bill? This failure by the committee has deprived the Senate of very important information concerning this altered bill. Senators should have the benefit of the knowledge of the Canadian publishers, who are the managers of one of the more important vehicles of Canadian culture. If, as we were told by Minister Copps, and the publishers when they testified on the unamended Bill C-55, the protection of Canadian culture required the measures in the original Bill C-55, what, we ask, is the view of the publishers now? Surely the committee should have canvassed those views. Surely members of the Senate need to know what the Canadian publishers think of this bill, as amended, just as the committee should have heard from the Canadian advertisers.

The committee's failure to call these witnesses back leaves the Senate in the dark on this matter. Indeed, what would have been lost by the committee taking a couple of more days and hearing from the publishers? In committee we on this side even undertook not to object to the committee sitting even though the Senate may be sitting. We were prepared to hear from those key stakeholders, namely, the publishers, the advertisers — and, I will speak to the third group in a moment — and a couple of constitutional lawyers. There would not have been any slowing down in the process of the bill.

Honourable senators, the Senate needs to learn from the publishers the relationship, for example, of the deal between Canada and the United States. We also need to learn of the so-called publishers fund. How many dollars do the publishers expect to receive from the taxpayer? Indeed, what is the relationship between the U.S.-Canada deal, the amendments and the publishers fund in the mind of the Canadian publishers? The Minister of Canadian Heritage spoke in committee of the elements of the package. It was clear and explicitly articulated by the minister that these amendments, the deal with the Americans and the publishers fund were all part of a package.

What, then, honourable senators, are we to think of the failure of the committee to examine a draft copy of the Canada-U.S. deal — a deal which was described by officials from the Canadian Department of Heritage as a treaty, a position also taken by Minister Copps. Honourable senators, if this is a treaty — that is, if this is the deal which provides the cornerstone for these amendments — then the failure of the committee to examine that deal, together with its nonexamination of the proposed amendments, is inexcusable. The committee had not only every right to examine the so-called treaty, but a duty to do

so, since it is the foundation of the amendments which Minister Copps spoke to before the committee.

How can the Senate possibly accept this report of the standing committee when it contains amendments that are based, according to the direct testimony of the minister, on the treaty and we have not seen a draft copy of the treaty? Why has the government not made available to the committee, and thereby to the public, that deal, when a legislative committee is examining the legislation?

I have used the past tense, honourable senators, because I now have in my possession a copy of the deal. I have grave concerns now, having read the letter that was exchanged between the ambassador for the government of the United States and Ambassador Raymond Chrétien for the Government of Canada. I will return to this matter later.

It was the right of the committee to have a copy of this draft document when the committee was drafting an amendment to a piece of legislation. It is our obligation, honourable senators, to examine this report in light of the agreement? We can do it here in chamber under debate or we can go into Committee of the Whole or some other forum within the time constraints imposed. As we know, last week the government brought in closure on the matter and we will be having our concluding votes on the matter as early as tomorrow afternoon at 4:30.

Honourable senators, why is the Senate being asked to accept amendments to a bill based on this deal and yet the committee itself has not seen a copy of it? Surely this process can only devalue the serious work we all know the Senate is capable of undertaking. The committee has allowed itself, regrettably, to be manipulated by the government and the department, the result being the submission to this chamber of a faulty report.

• (1740)

Honourable senators, I will read from the letter which is about the deal, the "treaty," as Minister Copps described it. The letter is from the Canadian Embassy dated June 3, 1999, addressed to the Honourable Charlene Barshefsky, over the signature of Ambassador Raymond Chrétien. On page four of this letter we read, in the ultimate paragraph:

If either party considers that the other party is not in compliance with this Agreement, that party may withdraw from the Agreement by written notification to the other party. The Agreement shall become null and void 90 days after such notification and, at that time, the parties' respective rights and obligations will return to those that existed immediately prior to the entry into force of this Agreement.

Understand, honourable senators, what we are faced with. The Americans can tell us that, if they do not think we are complying with this agreement, the agreement will be null and void. Then, all of a sudden, after 90 days, we will return to the status quo ante. The status quo ante ought to be the unamended version of Bill C-55 which we have supported from this side, and which we, in committee, even moved to have adopted in clause-by-clause

consideration. If the Americans decide they do not like the deal, the status quo ante is the result of passage of the amended version of Bill C-55 rather than that of Bill C-55 before the amendments were made. The government has us in an awful pickle and we are at great risk.

These are not my words, honourable senators. Those words are found in the ultimate paragraph on page four of the so-called "treaty."

Honourable senators, I have also suggested that the committee failed in not taking another day or so to examine these amendments and the effect of them on our fundamental Charter right of freedom of expression. You will recall that, at second reading stage, some of us raised concerns about whether Bill C-55 posed some Charter questions that go to freedom of expression. I had serious concerns.

To the credit of the committee and its distinguished chair, we did canvass that issue and a number of constitutional lawyers provided expert testimony. The opinion of the committee was divided, but at least we did canvass that issue.

Now that Bill C-55 has been amended, the Charter of Rights and Freedoms issue of freedom of expression once again arises or presents itself as a serious concern. Our concerns speak to the fact that the altered bill, as proposed in this committee's report, will give to the Governor in Council power to make regulations which will affect the freedom of expression of Canadians. It will affect where they are allowed their commercial expression, and the limits of that.

This will not be determined by the clear, explicit provision of a statute. As I said, the unamended Bill C-55 might have met the test of section 1. We had opinion from some constitutional lawyers that it would.

The committee, now having amended the bill and giving to regulation that control over commercial expression, is on very dangerous ground. The committee ought to have canvassed the opinion of the constitutional lawyers on that matter prior to submitting its report to this chamber.

Honourable senators, the fourth matter that concerned me is the process followed in committee. To proceed to the clauses-by-clause study of the bill and to move the amendments which Minister Copps discussed a minute or two after the minister left the committee room was wrong because it gave no time for analysis, and no time to hear selected additional testimony.

A number of observations have been made in this chamber so far concerning how radically different Bill C-55, as amended, is from the Bill C-55 which we adopted at second reading. We have had a ruling on the matter from the Speaker which we accept, but the concern of the bill being radically different remains with many of us. I am sure it raises some concern for all honourable senators.

In committee we heard about these amendments from the Minister of Canadian Heritage. When she left, the committee

moved directly to the clause-by-clause consideration. There was no time for reflection, discussion, or debate.

Honourable senators, I recognize that none of us expects to always have the unanimous agreement of our colleagues in every belief any one of us might hold, but all honourable senators should have the opportunity to at least discuss their beliefs in committee.

John Stuart Mill teaches that the vitality and liveliness of a belief is dependent on the freedom to express and discuss it. Mill writes that: However unwillingly a person who has a strong opinion may admit the possibility that his opinion may be false, he ought to be moved by the consideration that, however true it may be, if it is not fully, frequently and fearlessly discussed, it will be held as a dead dogma and not a living truth.

Honourable senators, in the matter of process, we also need to be concerned with a startling line in the deal between Canada and the United States. It is to be found on page 2 of the letter addressed to Ambassador Barshefsky of the United States from Ambassador Chrétien of Canada. The third paragraph on page 2 states:

Canada will amend Bill C-55, prior to it being passed by the Senate of Canada...

That is an interesting turn of events in our parliamentary system.

Honourable senators, let me conclude by turning to my fifth point. These are only the five points that came to mind as I flew in from New Brunswick today.

Senator Lynch-Staunton: You obviously had other preoccupations.

Senator Kinsella: Yes, I had a few other preoccupations this day.

The fifth point relates to the offset provisions and the tax implications, and the selection of 12 per cent, 15 per cent and 18 per cent. None of these issues, which is germane to the bill as amended, was examined by the committee. Why 12 per cent, I ask, of the advertising space for foreign publications from Canadian advertisers and not 3 per cent during the first phase? Why not 6 per cent rather than 15 per cent during the second phase? Why not 9 per cent rather than 18 per cent during the third phase?

• (1750)

I put it that way, honourable senators, because we have seen, sadly not in committee, but rather on television, where I watched the president of the Canadian Publishers Association at a press conference describing —

The Hon. the Speaker: Honourable Senator Kinsella, I hesitate to interrupt you, but your 15-minute speaking time has expired. Is leave granted to continue?

Hon. Senators: Agreed.

Senator Kinsella: Thank you, honourable senators.

The head of the Canadian Publishers Association described graphically, as he can only do on television, that 10 per cent would be up to here, and they would drown. Therefore, I am asking why not 3 per cent, then 6 per cent, then 9 per cent? We would be under the drowning threshold which the publishers association said was their level of tolerance.

We just received a copy of the agreement, and it indicates, as we saw reflected in the amendments, that it will 12 per cent, 15 per cent, and 18 per cent. Why, honourable senators? Surely in committee is where we ask the question, "Why?" The proponents of this treaty, this agreement, ought to have been called before the committee to give an explanation to the question "Why?", particularly when we know that the threshold of drowning is 10 per cent. Honourable senators, the 12 per cent of the advertising space and the 15 and 18 per cent based on this agreement was never, ever, examined.

Minister Copps spoke of the package. The committee had an obligation to study the consequences of the proposed amendment, especially because of the offset. As we learned from the Speaker's ruling and from some other interventions, Bill C-55 as amended does not have a particular clause that speaks to the offset. However, Minister Copps, appearing before the committee, and I have the transcript here, said that this is part of a package, and that the offset with the publishers' fund was part of the package.

We know nothing of the package. The committee did not examine the cost implications, or the consequences of the legislation. Surely, honourable senators, the examination is not obviated by the fact that something is not written there. Surely the challenge is before us is to see the consequences or implications that flow from the statute. What flows from this statute, by the direct testimony of the minister, together now with a cursory examination of the treaty, is that there will be significant costs to the Canadian taxpayer. That has never been examined.

Honourable senators, for all of these reasons, and I have canvassed but a few, I feel it is our duty to urge that this bill be referred back to the committee so that the committee can examine three or four further witnesses — publishers, the advertisers, a few constitutional lawyers and a cost analyst, in terms of the publishing fund.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): For that reason, honourable senators, I move, seconded by Senator Lynch-Staunton:

That the report be not now adopted, but that it be referred back to the Standing Senate Committee on Transport and Communications to hear witnesses on the amendments proposed, as the amendments radically alter Bill C-55.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Lynch-Staunton, that the twelfth report of the Standing Senate Committee on Transport and Communications be referred back to the committee so that the committee may hear witnesses on the amendments proposed, as the amendments radically alter Bill C-55.

Hon. John B. Stewart: Honourable senators, I should like to address a question to Senator Kinsella. Senator Kinsella has told us that the agreement between Canada and the United States contains a provision which would permit either party, I assume, to renounce the agreement. He will agree this type of clause is common in agreements and treaties. However, he has focused upon this particular clause. The implication of his concentration on the possibility that the agreement or treaty would be renounced is that the United States would renounce the agreement without just cause. He says that, in that situation, the controversy would revert to its original state — that is, it would revert to the state it was in before Bill C-55 was introduced in Parliament, well before the amendments now being considered by this house were incorporated in the bill.

What does the Conservative opposition propose? We would be back to the situation we were in months ago. The Progressive Conservatives say that they like Bill C-55. They want it passed. Therefore, in that situation, their advice to the government of the day would be to bring back Bill C-55. That is their solution to the problem. What would the Americans do? They would get out their old notes, the ones they used in the case of the previous bill, the one now before this Senate, albeit in an amended form, and say, "If you enact Bill C-55, we will hit your steel industry and your wood industry and your men's suit industry." Then what do we do? It is the same scenario all over again. The PCs would ask themselves: "Do we agree to some arrangement with regard to magazines, or do we accept the consequences of American bullying?"

Senator Lynch-Staunton: You do.

Senator Stewart: I put the problem to you. What would you do in these circumstances? Come on. Be clear about this. Is your basic argument that the United States of America is not a trustworthy partner in a bilateral trade agreement? Is that not your real position? Why not confess that the trade agreement made 10 years ago was based on very faulty assumptions?

Senator Kinsella: I thank the honourable senator for the question, and also for the opportunity to stress the position that I would have preferred to see the Government of Canada adopt from the beginning.

The model chosen by the Minister of Canadian Heritage was a very poor model. The method of delivery of this legislation was a very ineffective and poor delivery. The whole approach was wrong from the start.

Some Hon. Senators: Hear, hear!

Senator Stewart: But you like Bill C-55. You want it enacted.

Senator Di Nino: That is not our problem.

Senator Kinsella: The minister presented Bill C-55 and appeared before our committee to argue that it was "WTO-proof" and told us that it had a certificate from the Minister of Justice stating that it was "Charter-proof." Presented with this proposition, I was prepared to support it as presented. However, I would not have gone about it in the way in which it was done. It seems to me that this is a case study of ineptitude at the very first level in the department. When they drafted the first cabinet document addressing this issue, the bureaucracy failed the minister. As I said publicly, I think the minister was very forceful throughout the process, but it was a bad model, it was a bad initiative, and it was poorly executed. That is why we have ended up in this mess.

• (1800)

On your specific point, why should we give 18 per cent of the pie to the United States? They had zero, yet you are suggesting that this is a victory because we could not do any better than to give the Americans 18 per cent. I fail to see how that is a great achievement.

However, finally we get a chance to take a peek at this agreement, which we should have seen sooner. My argument is with the report. That is what I am addressing this afternoon, and what I have argued is that, in my opinion, there has been a faulty process in committee. The committee should have insisted on seeing this agreement. The committee could have solicited views on the meaning of this specific paragraph. Senator Stewart raises an excellent question. We should have explored in committee what this agreement, and this paragraph, really means.

The document says:

If either party considers that the other party is not in compliance with this Agreement, that party may withdraw from the Agreement by written notification to the other party. The agreement shall become null and void 90 days after such notification and, at that time, the parties' respective rights and obligations will return to those that existed immediately prior to the entry into force of this agreement.

With regard to the phrase "entry into force of this agreement," I could not find a clause which said that the agreement comes into force on a specific date. I take it that it is June 3, which is the date upon which our ambassador in Washington signed this letter. Perhaps that should be questioned from a technical standpoint. The point is: What are Canada's rights and obligations, and what are the rights and obligations of the Americans on June 2 or June 3?

Senator Stewart: Honourable senators, the situation would be as Senator Kinsella has described it in his speech, that is, as it was before Bill C-55 was before Parliament. I do not think he can evade my question. He is suggesting that, without reasonable cause, the United States will set aside this agreement.

Senator Kinsella, assume that you are the government. You intend to bring in Bill C-55 because you like its terms. Of course, you will bring it in in a much more adroit manner, but the bill will be the same. The United States then says, "We have seen all of this before. We intend to hit your steel industry, your lumber industry, and your clothing industry." What will you do in those circumstances? You may be much more adroit, but the facts of the matter will be the same. What will you do? Will you say, "We will not succumb to this bullying. We will let our steel industry and our entire economy, which has become so closely integrated with that of the United States in the last ten years, take a beating?" Is that what you will do? Let us be realistic.

Senator Kinsella: I base my realism on the words of your minister, who said that it would be illegal for any retaliation such as was mentioned in news reports. Minister Copps told us that that is absolutely illegal.

Senator Stewart: However, in this world, things sometimes happen that are not legal.

Senator Kinsella: All I can go on is the testimony of the minister.

Hon Marie-P. Poulin: Honourable senators, on April 29, Senator Kinsella came to the committee after listening to what he termed an "excellent address to Parliament" by the President of the Czech Republic. At that time Senator Kinsella said:

I am having some difficulty now in reconciling his vision of the world of the 21st century with these kinds of nationalistic, inward-looking types of legislation.

His comment, of course, was made in respect of Bill C-55 before it was amended. In fact, the amendments open the door to foreign publications, as we know. Therefore, I would have thought that Senator Kinsella would have embraced the amendments because they are less restrictive.

Having raised the points he raised this evening, how does he reconcile his objections to the amendments now, when then he was worried that the original bill was inward-looking legislation?

Senator Kinsella: I thank the honourable senator for her question. In the 21st century, no country in the world will be able to live in isolation. On the other hand, any country living within the shadow of the great hegemonies of the world, be it we here in Canada or the Mexicans in Mexico with the hegemony of the United States, or be it countries in the European theatre under the great economies of that region of the world, has the right, recognized in all the international human rights instruments, to the protection of cultural identity and group rights.

This is where I argued for the responsibility of the Government of Canada to keep special measures in place to ensure Canadian culture and the vehicles for it. Whether it be with respect to the electronic media or the print media, we need to have in place the appropriate provisions to secure our Canadian culture. That is why, from the time of the drafting of FTA and NAFTA, we have supported the exclusion of the cultural industries, and we articulated that during second reading debate.

The principles are very clear that we not only have a right, we have an obligation to protect our Canadian culture, otherwise we shall be assimilated, and there will not be the kind of diversity that the world community requires. I see nothing inconsistent with arguing that Canadians have a right to tell their stories, to use the terminology of Minister Copps, and yet, at the same time, to avoid like the plague the type of nationalism about which President Havel spoke.

Senator Poulin: Honourable senators, on the issue of process, which was one of the five points that the honourable senator raised this evening, the Senate is proud to follow due process. We take our work seriously. We do our work efficiently and reasonably.

When the committee first began to review Bill C-55 and to hear witnesses, the steering committee had looked at the list of witnesses that would be interviewed. It was agreed that a length of time of between six and eight weeks would be a reasonable time in which to seriously review this legislation.

We heard this evening that not all members of the committee were able to have the appropriate amount of time to review the amendments. As Chair of the Standing Senate Committee on Transport and Communications, I was informed by the office of the Leader of the Government in the Senate that the prepared amendments had been sent to the office of the Leader of the Opposition in the Senate on the Friday before the amendments were to be studied by the full committee the following Monday.

On that Monday, honourable senators, while the committee was engaged in clause-by-clause consideration of Bill C-55, I distinctly remember the Leader of the Opposition announcing that some members of the committee were withdrawing from the discussion and would not be participating in it.

Would the Honourable Senator Kinsella explain why he feels that due process was not followed?

Senator Kinsella: It is quite simple, honourable senators. What happened in committee was that these amendments were formally presented to us. I received a faxed copy of them on that weekend. I concur with the chairman of the committee on her time line. However, the availability of the draft, and the study and examination of the content of these amendments in committee are two quite separate things.

The important thing is the discussion in committee. Here were amendments that we needed to have. We needed to hear expert testimony from constitutionalists on the human rights issue. We needed to hear from stakeholders who were being directly affected.

Why would we have gone through the process of hearing from these witnesses on one bill, and when that is radically changed, we do not hear from anyone?

What we were asking in committee is that we be given a couple of days to hear from key witnesses their views on the amendments, and how these amendments would affect their

particular interests, including the issue of Canadians' rights to freedom of expression. That was rejected and the committee immediately went into clause-by-clause study. There was no consideration of, or debate on, the amendments. There was no desire. Obviously, the committee was following its marching orders.

Senator Poulin: Honourable senators, on the matter of the Charter, in terms of freedom of expression, Honourable Senator Kinsella is on record as being concerned that Bill C-55 might violate the Charter. We listened to different schools of thought from the experts. We were able to pose every question that we had at that time.

Would Senator Kinsella not agree that the amendments to permit Canadian advertisements in foreign publications is an improvement over the original thrust that would have banned the practice altogether?

Senator Kinsella: Absolutely not, honourable senators. In this amendment, there is no certainty at all. The Governor in Council dictates whether or not the threshold of 12 per cent, 15 per cent and 18 per cent has been met. Therefore, a Canadian advertiser who wishes to express himself commercially will be bound by government regulations which will limit that freedom of expression. There is no certainty in that.

If this proposed legislation is passed, it will fall before the courts, as sure as night follows day.

Senator Poulin: Honourable Senator Kinsella, as a former deputy minister, you would know how seriously regulations are prepared following the passage of legislation. You would also know the good faith that exists between the two countries that have now negotiated an understanding. Are you not undermining the good work of our public servants and our cabinet?

Senator Kinsella: Honourable senators, having attended a couple of meetings of the Joint Committee on the Scrutiny of Regulations, I have no faith whatsoever in that.

Senator Perrault: You are just a cynic.

Hon. John Lynch-Staunton (Leader of the Opposition): I have a question for Senator Kinsella. Since the government does not feel obliged to table the documents which Senator Kinsella has referred to, that is, an exchange of letters between the United States representatives and our ambassador to Washington which formed the agreement on which the discussions were based, I wonder, with leave, if Senator Kinsella could table the documents in order that all of us could be apprised of them. I doubt whether the government will supply them to us, and this might be the only way to get them before us.

The Hon. the Speaker: Honourable Senator Lynch-Staunton, are you requesting that the documents be tabled?

Senator Lynch-Staunton: I am asking that Senator Kinsella be allowed to table the two documents to which he referred in his presentation.

The Hon. the Speaker: Is leave granted for the tabling of documents?

Senator Carstairs: Not unless they are in both official languages. My understanding is that we do not have them in this chamber at present in both official languages. However, we are seeking to obtain them.

Senator Kinsella: Honourable senators, perhaps we should have a ruling from the Speaker.

Is it not the right of any honourable senator, having made reference to a document in his or her contribution, to table that document without that document being in both official languages?

Senator Stewart: Honourable senators, my guess is that the copy that Senator Kinsella has is in fact the agreement. However, I ask if Senator Kinsella is in a position to certify that it is a copy of the agreement?

I do not think that anyone can just put a document on the table. At least, that is not the practice in the other place, precisely for that reason. The table might be overborne by illicit documents.

The Hon. the Speaker: The question asked of me was whether it was necessary for documents to be in both official languages in order to be tabled. It is not necessary. When an honourable senator reads from a document, he is not obligated to have it translated. If there is a request to table that document, that document can be tabled.

Insofar as the question raised by the Honourable Senator Stewart is concerned, I have no idea whether the document is authentic or not. Honourable Senator Kinsella may verify that.

• (1820)

Senator Kinsella: Honourable senators, I will share the documents with my colleagues. However, if honourable senators opposite are not interested in reading the document signed between Canada and the United States, as they were not in committee, they can remain in the dark. I shall not be tabling it.

Senator Lynch-Staunton: They will be more comfortable that way. Do not confuse them with the facts.

Hon. B. Alasdair Graham (Leader of the Government): On that point, honourable senators, the first question put to me during Question Period today was from Senator Kinsella. He asked if I was able to table the documents to which he had been referring, and I said that I could not. My view was that, if I were to table the documents, I should do so in both official languages. I have the English version, but I have not yet received the French translation. That is why I was waiting for an appropriate moment to table them.

If it is the desire of honourable senators to receive the documents, then so be it.

Senator Kinsella: Will we have both the English and French versions before 4:00 o'clock tomorrow afternoon?

The Hon. the Speaker: Honourable senators, I have a request for the tabling of a document. I asked if leave was granted, and certain senators rose to ask questions.

If there are no further questions, is leave granted?

Hon. Senators: Agreed.

Senator Lynch-Staunton: In light of Senator Graham's reluctance to do the proper thing and table what he has, no matter what the language, Senator Kinsella has decided to withdraw his offer to shed some light on the issue by tabling two official documents — one, a letter from the United States representative, and the second from the Canadian ambassador. We are trying to shed light on this matter and the only response from the other side is that we must follow procedure.

We need not do that. We have just had a ruling. If my honourable friend has the documents, then he should table them.

Senator Graham: Honourable senators, Senator Lynch-Staunton would be the first to object if I were to attempt at any time to table a document in only one official language.

Senator Lynch-Staunton: I would never object.

Senator Graham: Since I came to this position as Deputy Leader or as Leader of the Government in the Senate, I have never varied from the normally accepted practice of tabling any document in both official languages when asked to do so.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: I would not object to the tabling of a letter from the U.S. trade representative to the Canadian ambassador, which is written in the language in which she is most comfortable.

The Hon. the Speaker: Do I understand that Senator Kinsella has withdrawn the request to table certain documents?

Senator Kinsella: Yes.

The Hon. the Speaker: The request for tabling has been withdrawn.

Honourable senators, we have before us the motion proposed by the Honourable Senator Kinsella. Does any other honourable senator wish to speak? If not, I will put the question.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I do not think there is to be a vote this evening. All votes on this matter are to be dealt with at 4:30 tomorrow afternoon.

The Hon. the Speaker: I must put the question, and then the standing vote will be deferred. At the moment, the motion is in limbo.

It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Lynch-Staunton:

That the twelfth report of the Standing Senate Committee on Transport and Communications be referred back to the committee so that the committee may hear witnesses on the proposed amendments, as the amendments radically alter Bill C-55.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen.

The Hon. the Speaker: Accordingly, there will be a standing vote. In accordance with the previous agreement, the vote will be deferred to tomorrow at 4:30 p.m.

Honourable senators, we are now back to the main motion. Does any other honourable senator wish to speak on the main motion?

Senator Kinsella: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Senator Lynch-Staunton: Honourable senators, as I understand, we will vote on the amendment to the report and the report tomorrow at 4:30 p.m. How can we move to the main motion when we have not disposed of the report?

Senator Carstairs: With the greatest respect, earlier today I entered into negotiations so that we could have that vote at 2:45 tomorrow afternoon, with bells to ring at 2:30 and the vote to be at 2:45. I received a message from Senator Kinsella informing me that this was not how his side wished to proceed. They wanted all votes to be held at 4:30 tomorrow afternoon.

Senator Lynch-Staunton: Right.

Senator Carstairs: I arranged for all votes to be at that time. However, I wish to be very clear that it was perfectly reasonable and acceptable for us to have the vote on the motion respecting

the committee report at 2:45 tomorrow afternoon, to then move into third reading, and to then have the vote on third reading at 4:30 tomorrow afternoon.

Senator Lynch-Staunton: I have no objection to that.

Senator Kinsella: Honourable senators, had we proceeded in accordance with rule 38, we would have had six continuous hours of debate. We would have completed the report stage and third reading, and all votes would be at the appointed time, 4:30 tomorrow. There is nothing inimical in proceeding by agreement in the same way we would have otherwise proceeded.

The Hon. the Speaker: I would remind honourable senators that we have followed this procedure a number of times previously. We agreed that votes be deferred, but we continued debate on the various elements and had all the votes at the same time. However, I am in your hands.

In my view, if we follow the practice we have followed in the past, we would now be back to the main motion, and I would hear debate on that motion. We now have a motion before the chamber that debate be adjourned. If that motion is agreed to, then debate will be adjourned until the next sitting of the Senate.

On motion of Senator Kinsella, debate adjourned.

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1998

SECOND READING—DEBATE ADJOURNED

Hon. Mary Butts moved the second reading of Bill C-32, respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development.

She said: Honourable senators, I am pleased to rise today to speak in favour of Bill C-32 which is a proposal to renew the Canadian Environmental Protection Act.

As Canadians, we have great pride in our natural environment. The notion that we live in a country blessed with pristine rivers and lakes, clean air and abundant wildlife forms part of our identity. It is part of what we value as a country.

Our impact on the environment is growing. Environmental challenges are becoming more complex. This proposed legislation will modernize the Canadian Environmental Protection Act passed by Parliament in 1988 so that the Government of Canada will be better able to meet these challenges.

Bill C-32 is a comprehensive bill. It expands our legal arsenal to tackle the threat of toxic substances, other harmful pollutants, and wastes. At the same time, this legislation provides industry with a clear and predictable framework. It takes a pragmatic approach that ensures consideration of social, economic and technical factors when developing measures to prevent pollution.

Honourable senators, Bill C-32 takes advantage of significant advances over the past decade in environmental science, law and policy. This legislation will improve and expand almost every aspect of the Canadian Environmental Protection Act.

I will focus in my remarks in three key areas. The first is pollution prevention.

Passage of Bill C-32 will enact pollution prevention legislation. With this concept we will shift our emphasis from managing pollution after it has been created, to preventing pollution in the first place.

• (1830)

Under this legislation, the Minister of the Environment can require industry to prepare and implement pollution prevention plans for toxic substances. Bill C-32 also includes authority for the Governor in Council to require pollution prevention planning from Canadian sources of international air and water pollution.

Pollution prevention planning drives innovation and produces both environmental and economic benefits. Transcontinental Printing, of British Columbia has found that simply reusing and recycling wastes saves them \$100,000 per year.

Under this legislation, other companies will learn about the environmental and economic benefits of pollution prevention planning. To showcase environmental success stories and demonstrate the economic benefits, Bill C-32 enables the establishment of a national pollution prevention information clearinghouse. Pollution prevention planning provides companies with an opportunity to devise pollution prevention approaches that are appropriate to their specific and unique circumstances, while meeting environmental goals.

With relation to toxic substances, the heart of Bill C-32 lies in its provisions that deal with such toxic substances. It builds on the powers of the existing act by requiring the examination of substances in Canada to determine if they are toxic. This legislation puts in place deadlines for action on toxic substances and obliges the government to conduct research on the emerging problems for such things as "gender bender" chemicals. The bill incorporates the precautionary principle agreed to by Canada and the nations of the world in the 1992 United Nations Conference on Environment and Development held in Rio de Janeiro. The precautionary principle states that "where there are threats of serious and irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

With respect to the issue of cleaner air, as we get further into the summer season, Canadians living in urban areas will experience more days of poor air quality. Bill C-32 will help us tackle this problem. The bill transfers authority from the Motor Vehicle Safety Act to set emission standards for new motor vehicles. Bill C-32 expands these powers to cover other types of engines, including those found in off-road vehicles, lawnmowers, Sea-dos and generators. Having tough emission standards for engines is only half of the equation. Authority to require cleaner fuels is the other half, and Bill C-32 expands existing authorities governing fuels.

Provisions covering pollution prevention, action on toxins and cleaner vehicles and fuels, are just three of the many ways in which Bill C-32 will improve the Government of Canada's legal capacity to protect the environment and the health of Canadians.

Everyone has a stake in a healthy, clean and safe environment. Everyone, therefore, has a part to play in ensuring its well-being. The federal government cannot do it alone. For this reason, Bill C-32 encourages greater public participation, as well as cooperation between governments. The key to successful environmental protection in Canada is the participation of all governments and sectors of society. This is the fundamental part of Bill C-32.

Legitimate concerns about Bill C-32 were brought to the attention of the Minister of the Environment by representatives of industry and, in response, amendments were passed in the other place to ensure internal consistency and a proper degree of clarity throughout the bill. Concerns were raised about provisions requiring the virtual elimination of the most dangerous of toxic substances; that is, those substances that persist for a long time in the environment and bioaccumulate in living organisms. Our experience with substances like DDT and PCBs demonstrates that even extremely small amounts of these toxic substances can have serious effects that are extremely costly or impossible to correct. Virtual elimination is the responsible and necessary step.

Other concerns were raised about the ministerial authority to require pollution prevention plans from Canadian sources of international air and water pollution. Given the domestic and internal dimension of these provisions, the authority was shifted to the Governor in Council.

The product of all these efforts is reasonable, pragmatic and effective legislation, built on the foundation of partnership with Canadians. Bill C-32 fulfills the expectations of Canadians that their government will do its part to protect the environment and human health.

On motion of Senator Spivak, debate adjourned.

[Translation]

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—
DEBATE ADJOURNED

Hon. Wilfred P. Moore moved the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

Hon. Roch Bolduc: Honourable senators, even though I have many concerns about Bill C-71 and the government's overall budget policy, I wish to draw your attention to two specific issues that came up during the committee's review of this bill. The first issue concerns the minister's powers, while the second one has to do with binding arbitration.

First, this bill gives the Minister of Finance new powers regarding debt management, this under the pretence of improving efficiency. The government seems to believe that the existing process is flawed in terms of its efficiency. This alleged flaw is in addition to those that the current government claims to have noticed in other areas. For example, cabinet meetings and sessions are not an efficient way of working. Accountability also is not efficient. And what about the check and balance system applied to the management of the \$600-billion public debt? All these are examples of alleged inefficiency used by the government.

Honourable senators, Part 4 of the bill amends the Financial Administration Act to give the minister the authority to make decisions concerning issues relating to the management of the debt. Until now, that power rested with the Governor in Council.

[English]

• (1840)

The new powers have been boiled down a bit from the original version of the bill. However, if I understand correctly the change in authorities in the bill as passed by the other place, there are still some powers transferred away from the Governor in Council to the minister.

Far too often, we see power that used to reside with Parliament, on the one hand, transferred to the Governor in Council. On the other hand, we see powers that used to reside with the Governor in Council handed directly to a minister. This is an ongoing and disturbing trend, and we are seeing it too often. In that case, we go a little further because we transfer from the minister to any of his employees in the Department of Finance.

For example, clause 44(3) of this bill states that, subject to the appropriate terms and conditions, the minister may enter into any contract or agreement, issue securities, and so on, related to the borrowing of money that the minister considers appropriate.

[Translation]

Honourable senators, I fear the attribution of too many powers to one minister, because of the increase in circumstances that may give rise to abuses of power.

When these powers are held by cabinet as a whole, a form of restriction operates with respect to a minister because the proposals he submits to his colleagues are questioned. In fact, an internal process that might be called internal "constitutionalism" provides a counterweight to the actions of a minister.

It is a whole other matter when the power to achieve these proposals rests with a single minister. The Minister of Finance has enormous discretionary power, which Bill C-71 is proposing to expand.

[English]

By way of another example, in clause 45 we see that if the minister borrows money by way of an auction, the minister may establish who will govern the conduct of the auction. In other

words, the minister will be given a kind of regulatory power over many areas, including the eligibility of persons to participate in the auction; the provision of information that the minister considers relevant, including information respecting the holding of securities and transactions in securities; the form of bids; the maximum amount that may be bid by a participant; and certification and verification of bills.

Yet, the bill specifically states that any rules that he establishes governing the conduct of an auction will not be statutory instruments. That means they do not become part of the parliamentary review process through the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations.

The argument for this way of doing things is that the number of businesses involved in the bidding will be limited to a few. I hope it will not lead to a family compact type of operation.

At the end of the bill there is mention of options, derivatives, swaps and forwards on whatever terms and conditions the minister considers necessary. I hope that I am wrong, but I was not given satisfactory assurances in committee that we are not giving very wide discretionary powers in terms of debt management to the Minister of Finance. We are giving him more power than used to be the prerogative of the Governor in Council.

Clause 61.1 gives the minister the power to delegate to any officer of his department any of his own powers under this part of the bill.

[Translation]

There is a tendency to give greater powers to the minister, under the pretext of efficiency, but these same powers are being taken away from the Governor in Council so that the other ministers no longer participate. I understand that the minister is a responsible gentleman, but he has enormous discretionary powers that he can exercise or delegate to his employees in the department. And this does not involve just any old thing. We are talking about a short-term debt of \$600 billion. Every day, \$3 billion or \$4 billion is floating around in the system, and officials are always making decisions. This is very serious. I have noted that fantastic discretionary powers are given to the minister when he represents Canada not only in the management of the debt but also in the authorization he gives in international organizations. I attach a lot of importance to this. The Minister of Foreign Affairs has enormous powers. We must be careful. All important issues become international; as soon as that occurs, the minister has considerable discretionary powers. In the case of certain internal issues, it was considered necessary to establish a statutory context in order to limit the discretionary action of a minister and cabinet. This does not exist in international relations.

Without meaning to be critical of the Minister of Finance, I would point out that he has considerable authority, such as his authority with respect to the European Development Bank, the pan-American banks, the Asian Development Bank, the International Monetary Fund, and the World Bank. That is a lot of authority in one man's hands.

My second argument has to do with arbitration. The second issue that deserves our attention concerns Part 3 of the bill, which would suspend recourse to binding arbitration for federal public service labour disputes for another two years.

The Professional Institute of the Public Service of Canada and the Social Sciences Employees Association have provided us with strong arguments in favour of dropping this provision.

We know that there have been freezes lasting five or six years and that public servants have lost some ground. The government wanted to save money. Public servants were forced to do their part. The government is asking that they do more.

Labour disputes in the federal public service are generally resolved in one of the following two ways.

First of all, by negotiation, which sometimes results in a strike, but not necessarily. This is how most disputes are resolved.

Second, by binding arbitration, where an independent third party orders a resolution to the matters under dispute.

This second method is less common than the first, being used in only about two per cent of labour settlements in the federal public service.

There is a third recourse, fortunately little used, which consists in calling on Parliament to pass back-to-work legislation. This has occurred under all governments in the past. Some unions are irresponsible and the government is forced to assume its responsibilities and introduce legislation.

Recently, in the case of postal workers and blue collar workers, we passed back-to-work legislation. This is not an ideal way to resolve a labour dispute, but it is sometimes necessary. Senators on both sides have all seen such situations.

In 1996, the government suspended for three years the option of binding arbitration, when the salary freeze was abolished. The government decided to do that because binding arbitration gives some control over salaries to third parties that are not accountable. In other words, the government does not want an arbitration board to determine its budget.

Bill C-71 extends the suspension of binding arbitration for two more years, until June 20, 2001. This time, the government claims it wants to facilitate management reforms, including the establishment of a new general classification standard, which will be on the agenda in the upcoming collective bargaining process with the unions.

I can fully understand why the government wants to reduce the number of job categories in the public service.

[English]

What I cannot understand is the amount of time it is taking to do it. This reclassification exercise had its origins with some of the human rights complaints filed in the 1980s. The actual work

started some five years ago, and it would appear that it still has a few more years to run.

In Quebec, we went through the same process with our civil service in the 1960s, something which I remember very well. We spent a few years on the studies and analysis and then the new classification plan was a done deal three or four months later. There is no reason why the federal government could not complete the job in six months to a year. This is a very poor excuse to extend the ban on arbitration. I do not buy it.

Honourable senators, again I stress that only 2 per cent of public service contracts are settled through the binding arbitration route. It is by no means a popular way for employees to obtain a contract. Indeed, the same danger that the government cites, that an independent third party might impose the wrong kind of settlement, is also a danger faced by the unions. There are, however, cases where fairness demands an alternative to the collective bargaining rule. Those cases generally involve job categories where most employees are designated as essential and cannot strike. An example of this would be the federal government's health care workers.

• (1850)

In most negotiations, the prospect of lost wages from a strike forces unions to modify their demands, while the prospects of service disruption also prompts the employer to move towards an agreement. However, in occupations where several employees are designated as essential, then there is no strike threat. The government is under no pressure to reach a reasonable settlement. In these cases, binding arbitration has been the preferred route to settle disputes.

Honourable senators, if the government is afraid that an independent arbitrator will look at what has gone on in the past, look at what people are being paid in the private sector, weigh every argument that the government can muster, and then conclude that some remedy is needed, then all this bill will do is put the problem off for another three years.

[Translation]

In the meantime, government employees are gradually losing their enthusiasm and turning more and more to the career pages in *La Presse* or *The Globe and Mail*. In its budget for the year 2001, does the government intend to again extend the ban on binding arbitration, or to make it permanent?

Public service morale is at an all-time low. Those in professional categories are leaving the public service in droves. People wanting a career in the public service still do enter the public service, if they cannot find anything better.

I am seeking in vain for what the government is doing to reverse this situation. It is not going to improve things by depriving employees who do not have the right to strike of other means.

There are not many public servants involved, some 15,000. In the interest of fairness, I believe it would be best to delete this part of the bill.

MOTION IN AMENDMENT

Hon. Roch Bolduc: Honourable senators, I move, seconded by Senator Beaudoin, that Bill C-71 be not now read a third time, but that it be amended:

(a) on pages 10 to 12, by deleting Part 3; and

(b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

[English]

On motion of Senator Carstairs, debate adjourned.

INCOME TAX AMENDMENTS BILL, 1998

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Callbeck, seconded by the Honourable Senator Cook, for the third reading of Bill C-72, to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act.

Hon. Michael A. Meighen: Honourable senators, Senator Taylor comes from Alberta, a low-tax province, so he would know all about this topic and need not listen.

Honourable senators, I am pleased indeed to rise to speak to Bill C-72. As Senator Taylor and others would know, Bill C-72 implements minor and selective tax reductions for some Canadians.

However, Bill C-72 does not begin to address the overwhelming tax burden borne by all individual Canadians and by all Canadian corporations. It does not begin to seriously reduce taxes so as to encourage the innovation and growth we so desperately need. It does represent a mere continuation of the Liberal dogma which treats the income tax system as a way to change societal behaviour.

Accordingly, honourable senators, I will speak this evening on only one aspect of tax reduction that should have been contained in this bill, namely, a proposal to cut the capital gains tax. Had this proposal been included in Bill C-72, here is what we would have accomplished: an increase in the rate of capital formation, economic growth and job creation through the year 2000; an increase rather than a decrease in tax collections; and indeed an increase in tax payments by more affluent Canadians; an unlocking of billions of dollars of unrealized capital gains thereby promoting more efficient allocation of capital; and an expansion of economic opportunities for the worker by bringing jobs and new businesses to capital-starved areas of rural Canada.

Finally, we would have significantly increased charitable giving by Canadians and, in support of this contention, I point simply to the increase that has already occurred subsequent to the minister's rather modest reduction of capital gains taxation on gifts of shares of appreciated Canadian corporations to charitable endeavours which he brought about in his previous budgets. I only wish he had the courage to go all the way.

I was struck, honourable senators, by a quote I read some time ago which was attributed to an unnamed New Jersey painting contractor. The quote went somewhat as follows:

You're looking at a poor man who thinks the capital gains tax is the best thing that could happen —

He was referring to a cut in the United States —

— because that's when the work will come back. People say capital gains are for the rich, but I've never been hired by a poor man.

Why, honourable senators, does our own Finance Minister seemingly fail to understand that capital gains tax cuts would stimulate job creation and economic growth? I try to reassure myself, knowing the minister as I do, that he is aware of the benefits of such a tax cut but he is worried by the inevitable knee-jerk criticism from the usual quarters that the cut would be nothing more than "a give-away to the rich."

While governing without making difficult decisions may be good for one's personal aspirations, it is not good for a country suffering the economic ills of high unemployment, low productivity and a falling standard of living.

If the minister cannot yet bring himself to propose tax policies that will really do the job, his colleague the Industry Minister has at least used the right words in expressing the wish that Canada become an economy of innovation.

I say today to the Minister of Finance: Stop attempting to socially engineer society.

I say to the Industry Minister: Stop using words and rather put into practice policies that will bring about a better Canada.

I suggest there is no better start than by reducing the capital gains tax.

Specifically, honourable senators, a reduction in this tax would clearly increase investment output and real wages. If the tax on the return from capital investments, such as stock purchases, new business start-ups and new plant and equipment for existing firms is reduced, more of these types of investments will be made. These risk-taking activities and investments are the key to generating productivity improvements, real capital formation, increased national output, and higher living standards.

We would liberate locked-up capital for new investment. I repeat my point about what happened to the charitable sector when gains that were locked up were released by the reduction of capital gains taxation.

For those already holding investment capital, a capital gains reduction will create an unlocking effect as individuals would sell assets that have accumulated in value and shift their portfolio to assets with higher, long-run earning potential. The unlocking effect might have strong, positive, economic benefits as well. Tax cuts would prompt investors to shift their funds to activities and assets such as new firms in the rapid-growth, high-technology industry which are offering the highest rate of return and, I might add, honourable senators, the highest rate of risk.

It would produce more tax revenue, not less, as stated in the recent budget of this government. Why? If a capital gains tax cut increases economic growth and spurs an unlocking of unrealized capital gains, then a lower capital gains tax rate will actually increase total tax collections. I am hesitant to draw Senator Taylor's attention to the low tax jurisdictions of Alberta and Ontario but that is exactly what happened in those provinces.

Finally, it would eliminate the unfairness of taxing capital gains due to inflation. A large part of the capital gains that are taxed are not real gains but inflationary gains. The government, as we all would agree, should not tax inflation.

• (1900)

Honourable senators, virtually all knowledgeable people agree that capital formation is essential to restoring growth in the Canadian economy.

A 1994 U.S. analysis showed that eliminating the capital gains tax — eliminating, not reducing — would have a positive impact on long-term economic growth in the United States. After five years, zero capital gains would lead to a \$300 billion increase in national output. That is \$3,000 per household, 877,000 additional jobs, and \$2.5 trillion of additional capital. Additional tax revenues of \$46 billion would be raised for the U.S. federal government as a result of added growth. It is a small wonder, then, honourable senators, that the U.S. has been reducing its capital gains tax.

We cannot compete, honourable senators, in the 21st century and win with a tax code that continues to repel capital.

The Standing Senate Committee on Banking, Trade and Commerce is presently studying the ability of small and medium-sized enterprises in Canada to access equity capital. All of the witnesses that we have heard have agreed that high capital gains taxes encourage debt financing and discourage equity financing. That is because the capital gains tax is a form of double taxation of the same income. It is taxed as corporate income when earned, and later as capital gains income when the taxpayers sell their equity holdings. In contrast, income resulting from debt-financed investments is taxed only once because interest expenses are tax deductible.

This means, honourable senators, that our capital gains tax regime creates a powerful — and, I should like to believe, unintended — incentive to finance corporate expansion and reorganization through leveraging rather than through equity.

I ask my honourable colleagues what possible rationale there is for imposing a tax penalty on investors willing to make equity

investments and to provide a corresponding tax benefit to the use of debt finance.

As Mr. Joseph Oliver, president of the Investment Dealer Association of Canada said before our committee:

There are a number of modifications to the Income Tax Act which would encourage investment in SMEs... In comparison to other countries, the capital gains tax in Canada is 40 per cent versus 20 per cent in the U.S., generally.

I might add that "This —"

...is far too high. As a result, investments migrate south where the tax regime provides investors with the higher returns that justify the risks associated with SMEs... A more effective approach, in our opinion, is to structure broadly based tax incentives that rely on market forces to channel equity capital to small business... The federal government could first reduce the inclusion rate —

— which is 75 per cent —

— for taxes on capital gains in respect to all Canadian equities. This option would increase capital flows to the equity market by increasing after-tax return.

Another witness, Mr. Denzil Doyle of Ottawa, put it very well when he said:

If you look at this investment spectrum, the front end of it is as dead as a doornail...because we have chased away those —

— and here I might add "investing"

— angels off the scene with our obscene capital gains tax situation in the country... The situation in the United States is somewhat different. They have identified what they call a qualified small business...

where

— under the 1993 Tax Act in the United States, the capital gains tax on gains made from investments in a qualified small business were cut in two; namely, from 28 per cent, down to 14 per cent. In Canada, it is 40 per cent across the board for —

— and here I would add "anyone who" —

— wants to free up some existing invested capital in order to do this early stage investment. In 1997, the Americans came up with a system called a roll-over provision —

That is, where an investor —

— could actually roll over his investments, provided

— "it", meaning the investment —

— was a qualified small business when he made the original investment. In order to free up money to invest in yet another qualified small business, he can roll it over tax-free, provided it is done within 60 days.

These statements are, indeed, compelling, honourable senators. We should not be surprised to find many of them reappearing as recommendations in the forthcoming committee report.

I should like to give you one more quote from Mr. Doyle. He said:

Most people buy and sell high technology stocks because of the capital gains. They do not do it for dividends. High technology companies do not pay dividends. We have a system — just to show you how stupid we are in this country — where our capital gains tax rate is higher than the dividend tax rate. That tells you how tuned in we are to the new economy. The capital gains tax is a drag on the circulation of that innovative capital, which is what really must get moving in this country.

Finally, honourable senators, I wish to give you a somewhat lengthy but wonderful quote from Mr. Vernon Lobo of Mosaic Venture Partners. He told us:

The real measure of investment success lies in the economic wealth that has been created. In fact, the roughly Can. \$150 billion of market value that has been created in technology public markets in Canada — half of which is from Nortel — pales in comparison with the roughly U.S. \$4 trillion...

— that is, \$4 trillion to \$150 billion —

...created in the U.S., about 10 per cent of which is Microsoft.

In the U.S., the emerging economy has created more than 25 times the economic wealth that it has in Canada. If we exclude the largest companies in each company, the ratio grows to 48 times. That is in nominal dollars; if we were to put it in equivalent dollars, it is something like 75 times. Why is this? We do not know the answer, but we do not believe that it is because Canada lacks the entrepreneurial talent or the potential. We also do not believe that Canada is behind in terms of its technological capabilities. There are obviously many reasons, but we believe that our capital gains tax rate contributes to this contrast.

In particular, a reduced capital gains tax rate for specific qualified investments can play a key role in addressing all three elements of venture capital flows.

It can create incentives for experienced managers to take entrepreneurial risk, it would also —

— attract angels, and it would allow capital to flow to those venture capital investors who have the necessary skills, and who have previously succeeded in creating value in early-stage companies. It would also encourage public

market investors to participate more aggressively in IPO issues, and to recycle capital for further investment more regularly. Furthermore, government tax revenues would not be reduced in the short term to encourage capital formation, but rather would be impacted only after market wealth had been created and monetized.

In short, upfront tax incentives are tantamount to giving awards at the beginning of a race rather than to the winners. We believe that a reduced capital gains tax for targeted investments would allow those entrepreneurs and investors who create value to keep a disproportionate share of that value as an incentive and reward. It would also allow the government to ensure that economic wealth is being created and recycled for further investment, rather than simply ensuring that capital is available for funding.

There is also an issue of the relative attractiveness of the U.S. tax and market environment, with U.S. capital gains tax rates of 20 per cent for investments which are held more than a year. I suggest that honourable senators consider the locking-in effect of the taxation rate in Canada, which is about 37.5 per cent. Take the case of the widow who inherits from her husband a stock purchased many years ago, and must dispose of that stock to make some essential purchases. There is no break given whatsoever in Canada for the fact that that stock has been held over a long period of time. Rather, it is taxed at exactly the same capital gains rate as if it had been purchased by any Canadian taxpayer three weeks ago and then flipped or disposed of for the medium capital gain.

I will continue quoting Mr. Lobo:

Entrepreneurs and investors end up paying roughly half the tax in the U.S., not to mention the additional capital available and the significantly higher valuations afforded them in the U.S. public markets.

The other result of this situation is that U.S. investors are frequently coming to Canada to invest in high-tech companies, and they are offering more attractive terms than Canadian investors can offer.

I have seen many of my most talented Canadian friends compare opportunities in Canada and in the U.S., and they have concluded that the social and personal benefits of living in this country no longer outweigh the economic disadvantages.

Another point that highlights our loss of talent is the fact that several senior executives of some of the largest U.S. Internet success stories are Canadian. Jeff Mallett is the president and CEO of Yahoo. Paul Gauthier, a Halifax native, is co-founder of Inktomi, which is a \$7-billion search engine company. Jeff Skoll, a Montreal native, was one of the founders of eBay. Rob Burgess is the chairman and CEO of Macromedia, a multimedia software developer. All of them are originally Canadian. There are many stories like this, and this loss of our top talent needs to be addressed.

We cannot build a great industry without great entrepreneurs...

• (1910)

Honourable senators, given the mounting evidence against capital gains taxation in general, and certainly against the rates we suffer in this country, I question why the government is not moving to reduce this most perverse of taxes. I do not think it is about tax revenue, since capital gains on general business and investment yields the federal government over just \$1 billion, or only 1.4 per cent of total federal corporate and personal income tax receipts.

The Hon. the Speaker: I must interrupt the honourable Senator Meighen to point out that his 15-minute time period has elapsed. Is there a request for leave to continue?

Senator Meighen: Yes.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Meighen: Thank you, honourable senators.

As economist and former parliamentarian Herbert Grubel said:

Lower capital gains taxes brings gains to everyone. The owners of capital are better off. Unlocked capital is used more efficiently. Productivity and the economy grow more rapidly. Unemployment is reduced. Government tax revenue increases.

That is paradise, honourable senators. What more incentive do we need?

If the Minister of Finance is so afraid of being perceived as giving tax breaks to the rich by reducing the capital gains tax, he should perhaps rethink his career, for it is poor leaders who think the populous cannot understand the connection between taxes and investment, and between investment and jobs.

If the Minister of Finance is not concerned about productivity, innovation and wealth, then perhaps he should step aside and let the industry minister, who is described in today's *National Post* as the cabinet's strongest tax cut advocate, in addition, of course, to being a potential leadership candidate, put his words into action and cut the capital gains tax, at least to a level approaching that of our largest trading partner and our most serious competitor.

Hon. Nicholas W. Taylor: Would the honourable senator permit a question?

Senator Meighen: I should be happy to entertain a question.

Senator Taylor: I was intrigued by the senator's statement that capital gains tax only yields 1.4 per cent of total federal

corporate and personal income tax receipts. That is not much, but have studies been conducted on who receives that capital gain? Are the upper 1.4 per cent of the high income earners in Canada the recipients of that?

The senator argues that decreasing capital gains tax will increase business, but who will benefit from it? My experience has been that the rich get richer when there are any changes to the capital gains tax. Would we not more appropriate to consider this matter in another light?

For example, a wage earners could use a percentage of their income to buy shares and be allowed to deduct a portion up to a certain percentage of their wage. That would involve the poor in a people's capitalism; whereas capital gains has a tendency to reward those who are already rich. I will admit that it has the side effect of creating jobs, but the perception is that those who take advantage of this are already rich.

How can we encourage the average person to buy shares?

Senator Meighen: Your suggestion might be a welcome addition to the promotion of equity investment.

I will say two things about your thesis. First, I think an increasing number of Canadians are investing in equities. The boom in mutual funds substantiates that. Certainly we have not reached the level of the United States yet in terms of the percentage of our population with equity investments but, as I mentioned, a great many Canadians have small shareholdings. The capital gains tax hits them just as hard as it hits the so-called rich person, and perhaps with even more devastating effect because the amount of money involved may be more important to the Canadian with lesser means than to the Canadian who is somewhat affluent.

Second, we cannot build a robust economy with no capital. Almost implicit in the remarks of Senator Taylor is the suggestion that we must discourage accumulation of capital in the hands of individuals. I admit that this is characteristic of the Canadian personality, although I am not sure that it is a characteristic we want to encourage. I am not sure there is anything wrong with Canadians accumulating capital and then having it available for equity investments or for doing such things as Jimmy Pattison did in Vancouver; that is, giving \$20 million to the Vancouver Prostate Centre.

You have to have money in order to give it away or to invest it, and there is nothing wrong with a regime which would allow more Canadians to make more money.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, I will put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

ENTITLEMENT OF NON-MEMBERS TO PARTICIPATE IN COMMITTEE MEETINGS—POINT OF ORDER— SPEAKER'S RULING SUSTAINED ON DIVISION

The Hon. the Speaker: On Tuesday, April 27, Senator Kenny raised a point of order to object to some recent practices of the Committee on Internal Economy, Budgets and Administration and its subcommittees. Citing rule 91, the senator noted that all senators are entitled to attend and participate in meetings of any Senate committee, even if they are not members. The senator also stated that he had sent a letter to the Clerk of the Senate dated February 25, 1999, asking to be kept informed of any meetings of the subcommittees of the committee. As well, he asked to be supplied with all agendas and working documents. Senator Kenny made this request, as I understand it, because of his conviction that every senator has the right to attend the proceedings of the subcommittees as well as full the committees.

In explaining his point of order, Senator Kenny went on to claim that some of the subcommittees of the committee of Internal Economy, Budgets and Administration had failed recently to follow the traditional practice of issuing notices of their meetings. He has therefore asked me, as Speaker of the Senate, to determine whether there is in fact an obligation to provide notice of any and all meetings, either of the full committee or of any subcommittee. Moreover, Senator Kenny asked me to determine if the Committee on Internal Economy, Budgets and Administration, or any standing committee, has the authority to permit its subcommittees to meet without giving notice.

[Translation]

The chair of the committee, Senator Rompkey, responded by saying that he believed that the actions of the full committee and its subcommittees had complied with the current rules and practices. All senators, he said, receive notice of meetings of the full committee and it welcomes the participation of any senator whether or not they are members.

[English]

Senator Rompkey went on to state that the committee's subcommittees have recently been revised to facilitate the heavy workload. The role of members of the subcommittees is to consider policy and to make recommendations for the consideration of the main committee. In carrying out their work, subcommittees frequently meet informally, whenever it is convenient, and often *in camera*. The senator went on to explain that the subcommittees do not make any decisions on their own. The main committee must endorse any recommendation proposed by a subcommittee.

[Translation]

I have had an opportunity to review the relevant *Rules of the Senate*, to consider current practices, and I am now prepared to make my decision. Let me state from the start that this decision

has been a challenging one. While many of the rules regarding committees have been a feature of Senate practice for years, few, if any, have been the subject of any ruling. Nonetheless, I believe I can provide some direction on whether there is a requirement for all committees and subcommittees to issue notices of any meeting they propose to have and under what circumstances those meetings can be held *in camera*.

[English]

• (1920)

Senator Kenny is certainly correct when he notes that rule 91 permits senators to attend and participate in meetings of any committee. To put it another way, committees do not have the authority to exclude senators from their deliberations. Nonetheless, there are some restrictions on the application of this rule that are well established. Non-members are prohibited from voting, and they cannot move motions or be part of the committee's quorum.

[Translation]

In addition, rule 92(1) requires that, except for specified circumstances listed in (2), all meetings of the Senate standing and special committees shall be held in public and only after public notice. By giving public notice, committees ensure that all senators, as well as members of the general public, are informed of upcoming meetings. Historically, notice has been provided by a variety of means, ranging from posting paper copies of the notices in various locations on Parliament Hill to the current practice of putting them on the Internet and faxing them directly to interested parties. This rule certainly applies to meetings of standing committees such as the Committee on Internal Economy, Budgets and Administration whenever it meets in public session.

[English]

It is not clear from the rules, however, whether any select committee is obliged to issue a public notice when the committee is to meet *in camera* under the provisions of rule 92(2). The language of the present rule suggests that there is no requirement to provide public notice for *in camera* meetings. Let me hasten to add that most committees do provide notices of their *in camera* meetings. Established practice seems to have filled in for this apparent gap in rule 92(2) as adopted in 1991.

However, the notice requirements observed by committees, either by rule or by practice, do not necessarily apply to subcommittees. That it does not pertain to meetings of subcommittees is evident from rule 92(3), which states categorically that the meetings of subcommittees shall not be subject to the requirements of rule 92(1). This means that subcommittees can choose to meet without public notice. Furthermore, rule 92(3) allows subcommittees to meet *in camera* at the discretion of the subcommittee members themselves. Subcommittees are not required, therefore, to seek authority from the main committee prior to making such a decision. This, I believe, answers one of the questions raised by the point of order.

Certain subcommittees, usually identified as steering committees that deal with agenda and procedure, routinely meet informally and *in camera* without public notice. Other subcommittees, those involved in conducting special studies or for the purpose of hearing witnesses, usually meet publicly following public notice. The only time a subcommittee is explicitly required to sit in public session, according to the provisions of rule 92(3)(b), is when it is considering a bill clause-by-clause. For all other occasions, the choice to meet publicly or *in camera* is a decision of the subcommittee itself.

Accordingly, it would seem that the subcommittees of the Committee on Internal Economy, Budgets and Administration have not breached any rule of the Senate by meeting *in camera* and without public notice.

This conclusion provides the basis for what I believe to be the meaning of rule 91, understood in the context of other related rules and current practices. As was already explained, rule 91 allows senators to attend meetings of committees. The rule, however, does not specify subcommittees which, by practice, have come to fulfil various support functions for the benefit of committees. I believe that senators retain the right to attend and participate in meetings of subcommittees whenever they are meeting publicly. It is less clear that senators have that right when subcommittees are meeting *in camera* for the purpose of considering issues that are subsequently reviewed and endorsed by the committee.

In my view, senators do not have an undoubted right to attend these *in camera* meetings of subcommittees. The opportunity for them to comment on the recommendations that are developed by subcommittees will come when they are considered by the committee.

I realize that this decision depends upon an interpretation of several Senate rules and practices that might vary from the understanding held by some senators. If this should prove to be the case, it would seem to provide an appropriate opportunity for the Committee on Privileges, Standing Rules and Orders to examine the rules and practices relating to the operation of committees. After all, committees are an important feature of the Senate, and it is equally important that the rules relating to them be clearly and fully understood.

It is my decision, therefore, that the point of order has not been established.

Hon. Eymard G. Corbin: Honourable senators, I should like to appeal the Speaker's ruling to the Senate, and I invite honourable members who agree with me to stand up.

The Hon. the Speaker: There is a request for an appeal of the Speaker's ruling.

Will those honourable senators who support the appeal please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who oppose the appeal please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: Please call in the senators. We will have a standing vote. There will be a 15-minute bell, so we shall vote at 20 minutes to eight o'clock.

• (1940)

Speaker's ruling sustained on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	LeBreton
Andreychuk	Losier-Cool
Austin	Lynch-Staunton
Beaudoin	Maheu
Bolduc	Maloney
Bryden	Meighen
Butts	Mercier
Callbeck	Moore
Carstairs	Murray
Chalifoux	Nolin
Cochrane	Oliver
Comeau	Pearson
Cook	Perrault
Cools	Prud'homme
De Bané	Roberge
Fitzpatrick	Robichaud
Fraser	(Saint-Louis-de-Kent)
Gill	Rompkey
Graham	Rossiter
Grimard	Sparrow
Gustafson	Stewart
Johnson	Stratton
Joyal	Taylor
Kinsella	Tkachuk
Kirby	Watt
Kroft	Wilson—52
Lavoie-Roux	

NAYS

THE HONOURABLE SENATORS

Corbin
Kenny—2

ABSTENTIONS

THE HONOURABLE SENATORS

Spivak—1

PRIVILEGES, STANDING RULES AND ORDERS

CONSIDERATION OF ELEVENTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders (restructuring of Senate committees) presented in the Senate on June 2, 1999.

Hon. Shirley Maheu: Honourable senators, it is with great pleasure that I move the adoption of the eleventh report on the Standing Committee on Privileges, Standing Rules and Orders regarding the restructuring of Senate committees.

[*Translation*]

The recommendations in this report are particularly important and definitely innovative. The proposals made will substantially change the organization of our committees. I am sure that they are necessary and that they will have a positive impact on the quality of work done by Senate committees.

This report is the outcome of several months of discussion. A number of proposals were submitted and considered by our committee. Rest assured, honourable senators, that no effort was spared and that all these proposals were considered carefully. In this regard, I feel that the proposal contained in this report is the result of a consensus reflecting all suggestions received.

[*English*]

This proposal suggests three distinct amendments. The first amendment addresses the number of standing committees; the second amendment deals with the size of those committees; the third amendment deals with additional members on the committees.

[*Translation*]

More specifically, the first section on the number of committees recommends the establishment of two new committees, namely defence and security, and human rights. These committees will, among other things, allow for a better distribution of the workload between the Senate committees, and will also help produce more in-depth studies on specific issues.

However, this change, which will take effect as soon as the report is adopted, is temporary and will end on October 10, 2000. This will allow the Senate to measure the impact and effect of such a change, and to make the required adjustments, if necessary.

The second section of the report suggests changes to the size of the committees and specifically proposes that the number of members for each committee be flexible and vary from six to twelve.

This approach will provide greater flexibility and will ensure that the business of the committees runs smoothly. The number of members for each of the committees will also be based on actual need and on the interest shown by senators.

[*English*]

• (1950)

Finally, the third section of the present report suggests that two additional members may be added to any standing committee. The Committee of Selection would have the power to recommend that these two additional members be added.

Honourable senators, as you can see, the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders suggests important changes to the structuring of our committees. I strongly believe that these amendments are necessary in order to maintain the high quality of our work. For that reason, I ask you to support the report.

Honourable senators, since the report was presented on June 2, a clerical error has been discovered in the text of the report. With respect to recommendation No. 2, "Size of Committees," part b, under the Senate Committee on Aboriginal Peoples, in the French text we find the following words:

[*Translation*]

...composé de douze membres, dont quatre constituent le quorum...

[*English*]

These words should be deleted. With the leave of the Senate, I ask that the report be amended accordingly.

The size of all standing committees is to vary from twelve to six members. A quorum is to be one-third of the members, but not less than three.

The Hon. the Speaker: Honourable Senator Maheu, do I understand that you are proposing, with leave, to make an amendment to the report that was presented?

Senator Maheu: Yes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Does any other honourable senator wish to speak?

On motion of Senator Prud'homme, debate adjourned.

HUMAN RIGHTS IN TIBET

MOTION AS MODIFIED TO URGE CHINESE GOVERNMENT TO RECOGNIZE SELF-DETERMINATION AND HUMAN RIGHTS OF TIBETANS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion as modified of the Honourable Senator Di Nino, seconded by the Honourable Senator Beaudoin:

That the Senate urge the Government of Canada to use its good offices to urge the Government of China to respect the right to self-determination and human rights of the people of Tibet and in particular to respect the Universal Declaration of Human Rights as well as resolutions of the UN General Assembly in 1960, 1961 and 1965 which affirmed these rights for the Tibetan people; and further

That the Government of Canada urge the Government of China to meet with His Holiness the Dalai Lama, without preconditions and under the auspices of the United Nations, to attempt to resolve the Tibetan problem.—(Honourable Senator Carstairs)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I should like to thank the Honourable Senator Di Nino for raising the important issue of human rights in China, including Tibet, through his motion of April 20, 1999.

Throughout Senator Di Nino's speech on this motion, he stated that the Canadian government was not doing enough to end human rights violations in China. I would have to disagree with the honourable senator on this point. I must state that the promotion of human rights is one of the central goals of Canadian foreign policy toward China. The federal government remains concerned by China's continued human relations violations, and it has always been their goal to have Chinese authorities abide by their international obligations and join the nations of the world in providing for the human rights of their citizens.

Canada is one of the most active countries currently working within China to develop a better human rights environment and the proper rules-based, institutional arrangements to support it. To that end, the policy of the federal government is to promote the emergence of a civil society and the reform of key institutions leading toward greater political responsiveness, improved respect for human rights, and greater predictability in Chinese domestic and international behaviour.

Transparency and rule of law are fundamental to the development of such a society, and it is through Canada's links with China that the government has been able to contribute significant steps in China's legal reform. These links have allowed Canada unprecedented access to Chinese agencies whose cooperation is essential to improving the human rights practices of China, including the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Public Security, as well as officials responsible for minority regions such as Tibet.

Moreover, Canada encourages an expansion of religious freedom in China, including Tibet, and I do not doubt that Canada would welcome a dialogue between Chinese authorities and the Dalai Lama, a world spiritual leader who earned the Nobel Peace Prize in 1989 for his dedication to peace and human rights.

In addition, with funding through the Canada Fund projects in Tibet, the Canadian government is endeavouring to improve the

lives of Tibetans living in rural areas, particularly those Tibetans who are in the greatest need.

Although I agree and support the idea behind Senator Di Nino's motion, the amelioration of human rights in China, I do not support the confrontational approach advocated by the honourable senator. Rather, I support the current policy of the federal government, which was so eloquently expressed by the Honourable Senator Austin last Thursday, June 3, 1999, in this chamber, when he stated that it is not confrontation that should be the basis of Canada's policy towards the Chinese government, but engagement at a level of mutual respect.

Unless an honourable senator on the other side wishes to adjourn the debate, I will adjourn the debate in the name of Senator Austin.

Hon. Consiglio Di Nino: Would the Honourable Senator Carstairs entertain a question?

Senator Carstairs: Certainly.

Senator Di Nino: I am not sure I understand the confrontational aspect of the motion. Perhaps the honourable senator could point out in what way this particular motion is confrontational?

Senator Carstairs: Honourable senators, I do not think there is confrontation just in the motion, but I believe a confrontational approach was taken in the address the honourable senator made to the chamber. It was filled with emotive language. In my view, it was an either/or situation.

Our relationship with China or with other emergent countries trying to promote human rights is progressing, albeit very slowly. In my visit to China two years ago, I sat down and met with various committees. They are making progress, but it is slow. It is not nearly as quick as I or as Senator Di Nino would like it to be. However, they are moving in a positive direction, and we should be there encouraging them to move further.

Senator Di Nino: Does my honourable colleague agree that the motion, which is all we have before us in the chamber, is a rather innocuous motion that creates no confrontation? It principally speaks to asking the Canadian government to urge the Chinese government to meet with His Holiness the Dalai Lama in an attempt to resolve the problem of Tibet. Is this something my honourable friend finds objectionable, confrontational or emotional?

Senator Carstairs: Let me repeat my statement, honourable senators. I said that I agree and support the idea behind Senator Di Nino's motion, the amelioration of human rights in China. I do support the principle to which he speaks. However, in his statements, on a number of occasions before this august body, Senator Di Nino in my view — and that is strictly my view — has sought to be confrontational and to make an either/or alternative.

Senator Di Nino: Absolutely.

Senator Carstairs: I do not think that is what it is, honourable senators.

On motion of Senator Andreychuk, debate adjourned.

• (2000)

NATIONAL DEFENCE

STATE OF HELICOPTER FLEETS—INQUIRY— DEBATE CONTINUED

Leave having been given to revert to Inquiries:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Forrestall calling the attention of the Senate to the Liberal cancellation of EH-101, and the state of Canada's Labrador and Sea King helicopter fleets.—(*Honourable Senator Di Nino*)

Hon. Consiglio Di Nino: Honourable senators, first, I should like to thank you for allowing me to speak on this matter.

I wish not only to participate in Senator Forrestall's inquiry but to congratulate him on it. The inquiry relates to the cancellation of the EH-101 program and also the state of the Sea King and Labrador helicopter fleets.

Much has already been said by honourable senators. However, I should like to add a few more points to this debate. Unfortunately, the debate has been too one-sided because honourable senators opposite have not joined in, and we would urge them to do so. I should like to hear their comments.

Honourable senators know that both the Labrador and Sea King fleets are in terrible shape. They know that replacements, which were dearly needed years ago for both fleets, have still not been provided. They know as well, as do most Canadians, that the present government's cancellation of the EH-101 program was a partisan and short-sighted move. It has been detrimental not only to the search and rescue capability of the Canadian navy but to its overall effectiveness as well.

Honourable senators, I am not a military expert but I can read the newspapers. There have been two more emergency landings of Sea Kings this past month alone. I do not know the total but I wonder what it is so far.

I understand as well that *HMCS Athabaskan*, which is a flagship for the Standing Naval Force Atlantic, will soon be leaving for Serbia to help enforce a naval blockade there. *HMCS Athabaskan* will be going into a war zone, carrying what amounts to one ageing, rickety, accident-prone helicopter, the Sea King. That Sea King, I am told, will not be able to fly more than 40 per cent of the time that it will be called on to do so. Such is the state to which our navy has been reduced because of this government's fondness for playing politics where our Armed Forces are concerned.

The lamentable state of the equipment we force our Armed Forces personnel to use has not escaped the attention of the world community. In the recently published edition of the internationally respected *Jane's Fighting Ships*, we find the following:

Whatever difficulties afflict the Armed Forces in complacent Eurozone, they always seem to be of an order of magnitude greater in Canada...with the Canadian defence budget taking a 23 per cent cut in the last four years, and Canada standing at 133rd out of 185 countries in the United Nations in military spending as a share of GDP. Earlier this year, the Chief of Defence Staff was reported as saying with intended irony: 'Canada will get exactly the Armed Forces that it is willing to pay for.' Other western countries suffering similar political myopia and complacency over defence investment should watch this country carefully to see what may happen if and when servicemen finally lose heart because of political indifference to the state of their equipment and conditions of service...

Honourable senators, I believe we can all agree that what I have just read echoes what we on this side of the chamber have been saying for a number of years. This government has abdicated its responsibility to the men and women of Canada's Armed Forces. The government has put — and continues to put — their lives needlessly in danger.

The question on everyone's mind is: How many more crashes, injuries and deaths must occur before this government puts its dislike of things military aside and gives the Armed Forces the matériel it needs to do the job we have asked of them?

On motion of Senator Stratton, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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• 36th PARLIAMENT

• VOLUME 137

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OFFICIAL REPORT
(HANSARD)

Tuesday, June 8, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, June 8, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to introduce to you a delegation in our centre gallery. It is a parliamentary delegation from Ireland, headed by Mr. Seamus Pattison, Speaker of the Irish House of Representatives. He is accompanied by a number of members of the House of Representatives, as well as by His Excellency Paul Dempsey, Ambassador of Ireland to Canada.

On behalf of all honourable senators, I wish you welcome to the Senate of Canada, and I wish you well on your visit to our country.

ROUTINE PROCEEDINGS

INTERNATIONAL TRADE

AGREEMENT BETWEEN CANADA AND THE UNITED STATES
ON PERIODICALS—RELEVANT DOCUMENTS TABLED

On Tabling of Documents:

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have the honour to table, in both official languages, a copy of the signed agreement between Canada and the United States on periodicals, as well as a copy of the news release and the backgrounder.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Good show! That gives us three hours to study it.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before I make my motion, I want to indicate that we will also be sitting early on Thursday, at 1:30 p.m. This is due to the fact that we will be offering tributes to Senator Whelan on Thursday and, unfortunately, his sister has just died so he must leave early to attend her funeral. I will give notice regarding that matter tomorrow.

[*Translation*]

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 9, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

• (1410)

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT ON COUNCIL OF EUROPE PREPARATORY MEETINGS
AT THE EUROPEAN BANK FOR RECONSTRUCTION
AND DEVELOPMENT TABLED

Hon. Lorna Milne: Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association which represented Canada at the Council of Europe Preparatory Meeting at the European Bank for Reconstruction and Development held on March 7 to 9, 1999, in London, England.

[*Later*]

REPORT OF THE DELEGATION ON THE SECOND SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE TABLED

Hon. Lorna Milne: Honourable senators, pursuant to rule 23(6), I have the honour to table the report of the Canada-Europe Parliamentary Association delegation representing Canada at the Parliamentary Assembly of the Council of Europe, Second Session, held from April 26 to 30, 1999, in Strasbourg, France.

BANKING, TRADE AND COMMERCE

MOTION TO AUTHORIZE COMMITTEE TO MEET
DURING SITTING OF THE SENATE

Hon. Michael Kirby: Honourable senators, with leave I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at 4 p.m. tomorrow, Wednesday, June 9, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne: Honourable senators, I give notice that on Thursday next, June 10, 1999, I will move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit while the Senate is sitting on Monday next, June 14, 1999, and that rule 95(4) be suspended in relation thereto.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF THE DELEGATION ON THE SECOND PART OF THE 1999 SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE—NOTICE OF INQUIRY

Hon. Lorna Milne: Honourable senators, I give the notice that on Thursday, June 10, 1999, I will call the attention of the Senate to the report of the Canada-Europe Parliamentary Association delegation to the second part of the 1999 session of the Parliamentary Assembly of the Council of Europe held April 26 to 30, 1999, in Strasbourg, France.

ORDERS OF THE DAY

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

MOTION TO ADOPT REPORT OF COMMITTEE— MOTION IN AMENDMENT—VOTES DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Callbeck, for the adoption of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Lynch-Staunton, that the Report be not now adopted, but that it be referred back to the Standing Senate Committee on Transport and Communications to hear witnesses on the

amendments proposed, as the amendments radically alter Bill C-55.

Hon. Mira Spivak: Honourable senators, in my view, Bill C-55 unamended was the correct response to the problem of keeping alive the Canadian magazine publishing industry. That view was supported during the course of our committee's deliberations not only by the magazine publishing industry, and until recently, by the Minister of Canadian Heritage, but by some prominent witnesses, including Mr. Gordon Ritchie, one of the negotiators of the Canada-U.S. Free Trade Agreement.

Mr. Ritchie, appearing before the Senate committee on April 22, summarized the situation neatly, as is his wont. Given the characteristics of the industry, he said, the fact that it sells advertising, not strictly magazines, that the editorial cost is up front, whether a publisher sells one copy or a million copies, that production costs are quite marginal, then if the Canadian market were an open one, the result would be that the market would be flooded with magazines directed at the bigger American market in terms of their content, including unadulterated American magazines and split-run magazines.

Since these magazines would offer themselves at marginal costs, in Mr. Ritchie's view — and at that time, a view shared by Senator Rompkey for one — that practice in economic terms would be dumping. In sum, he said a very good case could be made for Bill C-55.

The Minister of Canadian Heritage's choice of Bill C-55 was justified not only in her first appearance before the committee but in a letter to the Association of Canadian Advertisers on April 21, in which she states:

In the development of Bill C-55, the Government considered numerous possible approaches to address the potential impact of the entry of foreign publishers into the Canadian advertising services market. In the end, it was clear that the best solution was to address the issue at its heart by regulating foreign access to the advertising services market.

In speaking to alternative suggestions, in particular licensing arrangements between foreign and Canadian publishers, the minister wrote:

The goal of our cultural policy is to promote a distinctly Canadian magazine industry in which publications can respond to the interests of Canadian readers. An industry comprised solely of spin-offs of popular American magazines cannot accomplish this.

Referring to minimum Canadian content quota for all magazines as suggested by the advertisers, she wrote in that same letter:

The intent of our cultural policy is not to make all foreign magazines resemble Canadian magazines but to preserve a space for Canadian ideas alongside foreign ones.

In response to advertisers' suggestions that a direct subsidy to Canadian magazine publishers could be a trade-viable solution, the minister wrote:

If Canadians have fair access to Canadian advertising services revenues, they will be able to continue to produce quality Canadian content and would not require a government subsidy to do so.

Exactly. These are wonderful arguments supporting the original unamended version of Bill C-55.

By the way, Mr. Ritchie also stated in his testimony:

No amount of subsidy would make a magazine viable if you stripped out the advertising content.

I forgot to mention that Mr. Ritchie told us that he was also on the board of directors of Telemedia. Therefore, he knows something about the magazine industry.

Of course, the reason for amending Bill C-55 is fear, the fear of massive American retaliation and the fear that Bill C-55 would once again contravene World Trade Organization rules and Canada's international obligations. To go to the latter point first, the previous decision by the WTO on split-runs, as we heard over and over, did not bar Canada from protecting its cultural industries, nor from adopting alternative measures, but explicitly recognized Canada's right to do so.

The case for Bill C-55 not contravening either WTO or NAFTA rules can be summarized as follows. First, Americans did not pay for access to our advertising services market either under WTO or NAFTA. Second, Canada undertook no obligations with respect to advertising services under NAFTA. Third, under terms of NAFTA, the cultural exemption clause says that Canada may take up any measure to protect its cultural industries and, if these measures would otherwise offend against NAFTA, only then would the Americans have the right to seek authorization to retaliate with measures of equivalent commercial value.

In the opinion of expert witnesses, if the Americans do not have a right to access our advertising services market, they have no right of retaliation. Of course, under World Trade Organization rules, the U.S. must take the issue to the WTO. If those measures are found non-compliant and the WTO authorizes retaliation of what is determined to be commensurate value, then the U.S. would have the right of retaliation, but not of the magnitude threatened that would affect the lumber and steel industries. Of course, Canada's standing offer to take the issue of Bill C-55 to the WTO was not taken up by the Americans.

• (1420)

With regard to the U.S. retaliatory measures, we were told by Mr. Ritchie that unless the U.S. took this whole issue through the prescribed process, as I have just mentioned, their action would be unilateral and illegal. Nor could the impact of the U.S. retaliation be remotely close to the \$4-billion threat to lumber

and steel that the U.S. has been talking about, but, rather, closer to the \$400 million to \$600 million of advertising sales in Canada, of which the split-run market represents about \$150 million.

For those Canadians — and this includes all of us here. I am sure — who support Canada's basic policy goal now in force for over three decades which ensures that Canadians have substantial access to magazines that speak to them, it is a question of whether the recent amendments still enable us to meet that goal. The Canadian publishing industry — as indicated in press reports, since the majority on the committee refused to have publishers appear before the committee again — views these amendments with dismay.

"They are giving our lunch to the Americans, and they are preparing to give us welfare," says Jean Paré publisher of *L'actualité*. A "boot to the head for magazines," says the publisher of *Outpost* and *The Traveller's Journal*. François de Gaspé Beaubien of the Canadian Publishers Association believes this deal will put the magazine industry at serious risk by allowing U.S. magazines to scoop up an unacceptable percentage of the magazine advertising services market in Canada through unfairly discounted advertising pricings.

To take merely one example, by Heritage Canada's own calculations, each percentage point of access to split-run advertising in U.S. magazines is worth \$30 million a year. Agreement to a ceiling of 18 per cent access, which is in the amended bill, means that the U.S. share of the Canadian advertising market could amount to \$240 million more than the 10 per cent ceiling the department had originally said was the maximum the industry could afford.

Publishers say that 18 per cent of advertising space in a U.S. publication could represent the entire ad space in a competing Canadian magazine. There will be losses, it is recognized, particularly in Canadian publications focusing on women, news, and niches such as nature and outdoor activities. Women's magazines, the publishing industry says, are particularly vulnerable. Thirteen U.S. magazines sell a total of 19,000 pages of ads. Eighteen per cent of that total, which will now be open for purchase by Canadian advertisers in Canadian editions, would equal 3,400 pages, but the seven major Canadian women's publications sell only 4,800 pages, so 3,400 pages would be 63 per cent of the women's magazine market — very far from 18 per cent.

These calculations assume that U.S. publications would take all of the Canadian advertising directly away from Canadian publications. This would be easy for them to do because the U.S. publications would already have covered their costs by the time they produce a Canadian edition and could easily afford to slash their ad rates to attract Canadian customers.

Government officials, according to press reports, say they expect the magazine industry to lose out on a maximum of \$98 million in annual revenues, a figure being used to calculate the amount of compensation the industry could need in response to these measures.

The Canadian Publishers Association estimates that the magazine industry could lose up to one-half of its advertising revenue simply because 18 per cent could represent the majority of Canadian advertising dollars currently spent in a Canadian magazine. In a recent, gleeful editorial, *The Globe and Mail* thought it could be as high as 70 per cent, calling it "effectively unlimited access." If so, allowing foreign split-run magazines almost free rein in Canada is not simply a Trojan horse to the magazine industry, as some have said; it is a Mack truck driven through.

Provisions in the present bill go beyond the initial debate about advertising in American split-run editions. For the first time, foreigners will be allowed to establish new magazines in Canada with substantial Canadian content and be treated equally under the tax law. The scope of foreign control of Canadian magazines is also greatly increased, and some form of compensation for all this will be established by the federal government. Some Canadian publishers now feel that all limits on foreign ownership should be removed so that their struggling magazines can have a chance to be sold.

Is this a win for cultural sovereignty? Is this a bold new era with Hearst Publications gearing up to give us *Good Housekeeping/Bon Ménage* and *Cosmopolitan Eh?* to compete with other Canadian/foreign spin-offs from Time Warner, *People*, *Sports Illustrated*, et cetera? Of course, we already have all these magazines, but now they will have Canadian advertising. Should we be surprised if the Americans return for more concessions in the future or extend their attack to other cultural sectors or, God forbid, banks, particularly with Canada's two national newspapers blissfully calling for bringing down the other "outmoded sectoral barriers in other areas of publishing, broadcasting, financial services, et cetera"? How about the cultural exemption clause which now only works if we are prepared to withstand massive retaliation — bullying, intimidation, threats — which pits different sectors of the economy against each other?

How will Canadian writers fare since, as we heard from June Callwood, most of them depend on magazine work to support them in their entire writing career? It is a vital part of their bread and butter which enables them to write wonderful novels.

In my view, the Minister of Canadian Heritage is an ardent nationalist and a tireless fighter in defence of Canadian values in the face of continuous pressure from a powerful neighbour. I am a great admirer of hers. However, calling a negotiated deal a win because the U.S. has recognized content requirements in a cultural field cannot hide the fact that Bill C-55 now renders the cultural exemption in NAFTA an empty vessel, leaves the magazine industry in mortal peril, and bodes ill for the future of Canadian cultural sovereignty. If this is what it takes to avoid a trade war, it is a heavy price to pay.

Donald MacDonald, one of the fathers of the Free Trade Agreement, was reported recently in the *The Globe and Mail* as having said that Canada should be protectionist when it comes to culture. "We've got to stand up for our country at some point on matters like this," he said, referring to Bill C-55. Honourable

senators, George Grant's *Lament for a Nation*, prophetic years ago, has never been more apt than right now.

Hon. Fernand Roberge: Honourable senators, I rise this afternoon to take part in the debate on Bill C-55. The progression of this bill through Parliament has to be among the most confusing in recent history.

[Translation]

Today we have to examine the amendments that will make radical changes to this bill. This is an awkward situation for the Senate, but all the more so for the other House, which has sent us this bill in good faith. Something that is not easy for us, honourable senators, must be really difficult and complicated for the members of the other place. This bill, with the exception of one retroactive clause, affects only a few periodicals. It completely bans Canadian advertising in American publications destined for the Canadian market.

[English]

Through these amendments we have a bill that permits the carriage of this advertising at certain percentages without any requirement for Canadian content. In addition, any costs or losses to the Canadian magazine industry because of the Liberals' decision will be picked up by the people of Canada, in the form of either tax credits or direct subsidies. This bill permits that which was once prohibited, and requires the people of Canada to pay the costs associated with this reversal of government policy.

[Translation]

How much is it going to cost the Canadian taxpayers to enable the Chrétien government to save Ms Copps?

[English]

• (1430)

Need I remind honourable senators of the cause of the by-election occasioned by the Minister of Heritage when the government had to concede that the GST was a program that they both supported and desired to keep in place, or the \$28 million spent to settle the trade dispute with Ethyl Petroleum when the same minister, then as Minister of the Environment, prohibited trade in the fuel additive MMT?

[Translation]

The Chrétien government inherited trade relations with the United States and Mexico based on the free trade agreement with the United States and NAFTA, two agreements that the current government supports with enthusiasm. Unfortunately, this government does not know how to manage these agreements nor the trade disputes arising from them.

Its lack of knowledge in this area has cost Canadians dearly and will no doubt cost millions more if this bill is passed. It is difficult to analyse the substance of the amendments, because the committee was not able to call witnesses.

[English]

From a personal point of view, I was never totally convinced that we needed Bill C-55 in the first place, given the lack of interest of the American magazine industry in pursuing split-run editions and the new high-tech methods of gaining access to information through the Internet and other sources. I find it hard to believe that Bill C-55, even in its original form, would offer much protection to the Canadian magazine industry.

[Translation]

I read with interest the article in *The Globe and Mail* yesterday, which noted the popularity of Quebec magazines and the conclusion of the Patterson report, which was to the effect that the Quebec magazine industry and business magazines would not or would only barely be affected.

[English]

Other Canadian magazines may be forced to become more competitive. My view was that if the influx of split-run magazines became a problem, then the government should deal with the issue, but certainly not in the manner which is in front of us now. We have a situation where the government has reversed itself, allowed itself to cave in to the threats of trade retaliation, and put in place a regime which allows American access to Canadian advertising dollars. This, as far as I am concerned, represents the worst possible solution.

However, again, we have no evidence of the reaction of the advertisers, the publishers, and the legal experts as to whether this is a workable arrangement. We also know, given the timetable of the members in the other place, that they will not be able to hold hearings on this bill.

What are we to conclude? We can conclude that the Chrétien government is afraid of a public debate before Parliament on its new arrangement, and we can conclude that the Liberal government has introduced amendments to completely reverse the impact of the bill based on a treaty that we have never seen. Above all, we can conclude that the government does not know how to deal with international trade issues.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, we know that Minister Sheila Copps joined, internationally, with many countries in the European Economic community and specifically with Quebec, which, in cultural terms, defended to the end, in the context of international agreements, what was known as cultural exception. I was informed yesterday of the fact that, in Europe and singularly in Quebec, in all cultural communities, there was concern that the Government of Canada had given into American pressure in this area.

These communities still wonder about the consequences of this agreement for other cultural areas, about which Canada continues to say, even after this agreement, it wants to join with European countries defending the cultural exception against the American

invasion. In particular, the Government of Canada had shown solidarity with Quebec cultural communities and the Government of Quebec in order to defend internationally Canada and Quebec's cultural specificities.

And now the Government of Canada, without advising anyone in Quebec or elsewhere in Canadian cultural communities and in particular its Common Market partners, gave into American pressure. Did the Government of Canada carefully measure the scope of this agreement it concluded with the U.S. government?

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Bill C-55 with amendments is simply unacceptable, as it represents a callous abandonment of a periodicals policy which had its beginnings nearly 40 years ago and has been reconfirmed in one form or another by every government since — every government, that is, but the present one, which caved in to threats of trade sanctions, and illegal ones at that, according to government members and supporters.

Others have spoken here and elsewhere of recent events surrounding Bill C-55, particularly the government amendments. Their condemnation has been nearly unanimous, so I do not intend to dwell at length on this particular aspect of the debate. Another aspect of this bill merits greater attention than it has received, and that is how Parliament was used as a bargaining chip in the negotiations with the United States.

According to the transcript of the background briefing by American trade officials on May 26, discussions on the issue of Bill C-55 began in July 1998, as, to quote from the transcript of the background briefing:

...rumours of a spending submission to the Parliament surfaced.

The bill was given first reading in the House of Commons on October 8, when talks with the Americans were still going on and no doubt intensifying. Only the most naive had to believe that the bill would receive Royal Assent in its original form. Yet, the Minister of Canadian Heritage, wrapping herself in the flag, mused about how essential it was for Canadians to read stories by Canadians about Canadians. The fact that the official definition of "Canadian content" is completely foreign to her definition is of no significance. Bill C-55, she assured us, would take care of everything.

The House sent the bill to the Senate on March 16, and at second reading two days later, the Leader of the Government in the Senate insisted that there were no amendments planned, and none intended. Senator Bolduc asked if the government would resist pressures by Canadian industries threatened by illegal trade retaliations, whether the government would resist those pressures to abandon Bill C-55.

Senator Bolduc asked:

Is that the government's decision?

Senator Graham replied:

Honourable senators. I said no matter what pressures are applied. Is the opposition not listening?

He was asked:

The government will not give in?

Senator Graham replied:

I am the sponsor of the bill and, as far as I am concerned, the bill stands as it is.

Later in the same debate, the Leader of the Government said:

We see no reason why our American friends would not be happy with this legislation.

The charade continued before the Standing Senate Committee on Transport and Communications.

April 13, Minister of Canadian Heritage:

I am looking for quick and speedy passage of this bill, senator.

May 11, Minister of Canadian Heritage:

This is why I can assure you this morning that Bill C-55 is still the best proposal that we have for our Canadian magazines.

May 25, Minister for International Trade:

Let there be no doubt — this government stands behind Bill C-55 and we are determined to see it pass into law.

At every opportunity, opposition committee members, encouraged by the ministers' adamant support of Bill C-55, urged immediate clause-by-clause study of it, and each time the Liberal majority refused. Obviously, negotiations between the United States and Canadian officials were nearing a conclusion and the government was stalling progress of the bill in anticipation of the agreement.

This is what I mean when I maintain that Parliament — both Houses — was used as a bargaining chip, one ironically which in the end was never used as, to complete the metaphor, Canada threw in its hand and capitulated with the result now before us. Parliament was never let in on the progress of the discussions, even as it was debating proposed legislation which was the subject to those discussions. Such disdain for Parliament's role is but another manifestation of the government's complete lack of respect for it.

There is more, honourable senators. When the Minister of International Trade appeared before the committee on May 25, he said that an agreement had yet to be reached, but he expected one shortly. In fact, according to the Americans, and I quote again from the transcript:

...we finally reached agreement Monday during the holiday in Canada...

— which is the day before the minister's appearance. Perhaps the minister did not know, as a final agreement was decided through the intervention of the Prime Minister's office and our ambassador to the United States. Perhaps the minister did find out at the same time as the rest of us, the evening of his appearance. If so, it will certainly not be the first time that this Prime Minister's office has undermined and overruled a minister, another sad indication that the lack of respect for elected representatives excludes no one.

• (1440)

Cabinet and caucus consensus has been abandoned. Power is well ensconced in the Langevin Block, while the role of the other place in the Centre Block is limited to providing a Canadian equivalent to the *Jerry Springer Show* called "Question Period."

While some members of the House of Commons get their jollies by heaping abuse on the Senate, their time would be better spent in reviewing how they have allowed the importance of their House to become as irrelevant as it is, and how insignificant has become their role in it.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: Senate reform certainly, but not without House of Commons reform at the same time!

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: For without overall reform, Canadians' respect for its parliamentary institutions will continue to diminish and the entire parliamentary process will suffer even more as a result.

In my opening remarks, I indicated support for what Bill C-55 was intended to achieve, something which has been abandoned with the government amendments. That is not to say that this proposed legislation is not without weaknesses, some quite serious.

The government's imposition of time allocation, done to meet elected members' holiday travel plans, for it has yet to show any other reason for passage without significant debate in the other place, makes it useless to propose amendments as both time and votes are lacking to support them.

I will, however, give a brief summary on how Bill C-55 could have been improved before the government's amendments, while safeguarding the principle of the bill, no matter whose definition of principle one uses, including the Speaker's.

First, senior counsel to Canadian Heritage has confirmed that a conviction under Bill C-55 would constitute a criminal record. For the government to maintain that an advertisement sold illegally is a crime against society is perverse, to say the least. Such a provision should be removed from the bill.

Second, clause 15 of the bill says in part that:

...a foreign publisher who commits an act outside Canada that, if committed in Canada, would be an offence...is deemed to commit that act in Canada.

To say that this smacks of Helms-Burton is not an exaggeration. Canada objects strongly to the Helms-Burton act, as it imposes severe penalties on foreigners doing business in a foreign country, namely, Cuba. "What right do the Americans have in extending their law into a foreign jurisdiction?" Canada has asked repeatedly. Yet, in Bill C-55, this is exactly what the government is asking Parliament to do.

According to the Library of Parliament, to which I am most grateful for its excellent research on this matter, there is Canadian legislation which includes a provision that an act committed outside of Canada is deemed to have been committed in Canada. Let me quote the library:

...the vast majority of such provisions are found in the Criminal Code and deal with particularly odious offences which would be referred to as crimes against humanity, or with jurisdictional situations in which the "deeming" provision is required to allow for the prosecution of crimes which have an international flavour.

I believe that I am on safe ground in saying that the deeming provision has never been used in trade legislation and has no place in it. It should be removed from Bill C-55.

Third, the actual application of this bill rests not so much on the bill itself as on the regulations flowing from it. This is but another example of where Parliament is asked to pass a bill which is in the form of a statement of intent while those parts dealing with how it will be implemented will be written by unelected officials who may not always carry out the intent of Parliament. The least one should expect is that the regulations be tabled before coming into effect so that either or both Houses have a chance to examine and report upon them, if so inclined.

Finally, clause 22 states:

This Act comes into force on a day to be fixed by order of the Governor in Council.

This was introduced as a last-minute amendment at third reading in the House of Commons, as a not too subtle signal to the Americans that whatever happens in Parliament, the bill will become law when the government so chooses after a deal has been made, whatever Parliament's inclinations.

This sort of provision appears in other bills and again reflects a government's desire to arrogate to itself responsibilities that properly belong to Parliament. I would amend the clause to read:

...comes into force on a day to be fixed by Order of the Governor in Council, but no later than 60 calendar days after it has been given Royal Assent.

After reading the letters exchanged between the United States' representative and Canada's ambassador to the United States — and I thank Senator Kinsella for having found them for us in time rather than three hours before the vote, as the government leader did — I can understand why the government preferred not to discuss their content during committee hearings. This agreement is not in Canada's favour on at least three counts.

First, either party can at any time withdraw from the agreement, which then becomes null and void 90 days after such notification. To quote the agreement:

...the parties' respective rights and obligations will return to those that existed immediately prior to the entry into force of this agreement.

The agreement went into force on June 3. Bill C-55 has yet to be passed by Parliament. Therefore, this can be interpreted to mean that should the United States withdraw, it will no longer be subjected to Bill C-55, as Parliament will have decided it after the agreement went into effect. In other words, which has paramountcy, an agreement between two governments, or the law of the land? This is an issue we should have settled in committee before being asked to give approval to amendments which arise out of this agreement over which there is a great deal of controversy, which will increase as time goes on in terms of its interpretation.

Second, there is a fundamental disagreement between the two parties on the definition of "net benefit" pursuant to the Investment Canada Act. Canada insists that there be a "majority" of original editorial content to qualify. The United States claim that "substantial" is the operative word. There is no dispute on defining the word "majority," but what does "substantial" mean? It does not mean majority, on that we can agree.

Third, the United States' trade representative, in her letter to the Canadian ambassador, writes that in regard to Bill C-55:

...the United States will take no action under the World Trade Organization (WTO) agreements and the North American Free Trade Agreement (NAFTA)...

Under NAFTA, individuals and corporations have a right to file claims against a signatory as allowed in chapter 11 of the NAFTA. Am I right in saying that this right is maintained?

Not in the agreement, but flowing from it as a sop to the Minister of Canadian Heritage is the announcement by the Prime Minister that authority for review and approval of investments related to all cultural industries are transferred to the Minister of Canadian Heritage. Section 3 of the Investment Canada Act is quite clear that the Governor in Council designates only one minister for purposes of this act. The pertinent words are:

Minister means such member of the Queen's Privy Council as is designated by the Governor in Council as the Minister for the purposes of this act.

Other than being bad policy — meaning having more than one minister interpreting separately the same act to satisfy conflicting goals — I suggest that there is nothing in the regulation-making process of the act, which is section 35, which empowers a designation of more than one minister with authority for review and approval. To do so, other than by amendment, I suggest, would be *ultra vires* to the act.

As for public policy, how can a proper decision be taken when the review is done by two ministers separately on a company that is involved in both cultural and non-cultural activities? Just think of the chaos that would result from that.

In its indecent haste to get Bill C-55 through Parliament, no time is being allowed to examine this and other key concerns. This process reminds me too much, as it has reminded Senator Roberge, of the MMT debate. The government ignored warnings that the bill was in violation of the interprovincial trade agreement, which it was subsequently declared to be, ignored the advice of its own officials to satisfy a key industry employing thousands of people on the eve of the last election, and it eventually cost them and all of us \$20 million.

What cost is attached to Bill C-55? In an attempt to mollify a furious Canadian magazine publishing industry, once the most enthusiastic Bill C-55 supporter, the Minister of Canadian Heritage has announced the creation of a magazine fund. During second reading in the house, last October, the minister pointed out that the bill contained neither taxes nor subsidies.

• (1450)

On that point at least she is consistent, as the amendments themselves make no reference to a magazine fund. Nonetheless, the fund must be part of the debate, as it results from the government generously opening up a market, until now reserved exclusively for Canadians, and admitting that the resulting costs will be such that those affected will be compensated through government assistance.

Tax relief to Canadian domestic industry, whatever form it takes, is justified as a means to allow industry to better meet foreign competition. The magazine fund is being established to compensate a Canadian industry to meet a foreign competition which is being created by government. Can anything be more ludicrous, even scandalous? Is this to be Canada's new investment policy: Let foreign competition enter where it has never been allowed before, and use taxes to make up whatever financial losses to Canadians ensue? No wonder the government ignores calls to disclose how the magazine fund will be established, how it will be funded, who will qualify and, in particular, how much it is expected to cost in its first five years. I suspect that the government simply does not know and, perhaps, does not even wish to know.

As the Canadian magazine industry has been unusually quiet since the fund was announced, no doubt drooling over unexpected financial guarantees, why should the government not remain silent also? Certainly, in its view, Parliament's asking questions, especially relating to tax dollars, is simply

impertinent. Adjournment of the house this week is its number one priority, and debate on bills is scheduled to meet this target.

The Senate's ability to have key issues raised and properly debated having been thwarted through the imposition of time allocation, I can only hope that there will be enough members in the other place — where this debate should have been initiated in any event — to raise them with the cabinet ministers directly concerned, including the Prime Minister. To let the bill go through with so many key questions unanswered, with so many varying interpretations of it and with its many flaws — not to mention the letters of agreement which the government has yet to explain, with one government claiming "substantial" as a key word, while the other claims "majority" — is simply asking for trouble in the long run.

This is not the way to handle legislation: Pass it blindly, worry about the fallout later. I would have thought that one MMT scandal would have been one too many. Now I fear we are being taken down the same road, and the ramifications may well be more devastating than those arising from the MMT fiasco.

I wish to end by reading a letter sent to the Prime Minister by Greg MacNeil, President and CEO of Multi-Vision Publishing Inc., a letter which, to my mind, better than anything I have read from a member of the magazine industry, expresses the dismay felt by the industry and the anxieties that have been created by the thought that Bill C-55, with amendments, may become law. To borrow from Senator Spivak, this letter is, indeed, another lament for a nation. The letter is dated May 27, 1999.

Dear Prime Minister:

Thank you for all the time and effort that has been invested on Bill C-55 and its related issues. In addition to all that you have already considered, I wanted to add a personal perspective.

Approximately four and a half years ago I left one of the best jobs in the Canadian publishing industry to start a new magazine company. Today we employ forty people directly and scores of others on a freelance basis. We publish several consumer magazines, including Elm Street and Owl Canadian Family, with total revenues of nearly \$14 million.

Although we have published the above titles for only three years, we have invested millions of dollars in creating what are generally considered to be the highest quality magazines in their respective categories.

We would not have created our company or launched our magazines without the Canadian government's consistent and long-standing assurance that Canadian culture would be protected. While I can appreciate the political challenges of dealing with such a powerful neighbour as the United States, the elimination of a substantial Canadian content requirement followed by an advertising *de minimis* of twelve, fifteen and eighteen per cent can be viewed as nothing less, with all due respect, than a complete sell-out to American bully tactics.

I recently saw a television documentary about the Bismarck. After its rudders had been irreparably damaged by a torpedo, sailors on the Bismarck had to wait out the night for the impending battle at dawn. According to the few survivors, they all knew their fate.

Unfortunately, so do we. While we will fight with vigour until the end, it is disappointing beyond belief that we must fight a war that our government promised we would not have to fight and with an adversary that our own government is afraid to engage.

It is the first day of my life that I have been embarrassed to be a Canadian. And now, we will wait out the night.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, a little over two months ago I rose in this chamber to sponsor Bill C-55, a bill to ensure that Canadian magazines, their writers, their editors, their photographers, to name but a few, can continue to tell us about Canada and about Canadians. However, when I spoke, we were all well aware that a dark shadow lay over the legislation. The United States, our most important trading partner, with \$1.5 billion in trade crossing our borders every day, was threatening to launch a trade war if we proceeded with this bill.

The Americans threatened to target four important sectors of our economy that annually export primarily to the United States between \$4 billion and \$5 billion worth of products. Trade action against steel, lumber, plastics and apparel would have had a chilling effect on new export contracts and investments across Canada. In other words, the consequences of the United States' proposed actions were very serious.

At the same time, the issues at stake in Bill C-55 were also very serious. The United States has never really understood our concern about safeguarding Canadian culture. To them, culture is just another industry, and a big one at that. To us, it is a great deal more. Culture is about preserving our unique way of looking at the world in the face of a tidal wave of information from our giant neighbour to the south. We know that our opinions and ideas can hold their own on their merits, but first they must be heard. That is what Bill C-55 is all about.

Honourable senators, as amended by our committee, Bill C-55 helps us achieve two very important objectives: We have succeeded in averting a trade war, and we did so while preserving our ability to ensure that Canadian stories will be told well into the future. We have also crossed an important threshold in our trade relationship with the United States.

For the first time, the United States has accepted, in writing, that a government can use its laws to protect culture. They have accepted that we can control our advertising services market for purposes of cultural policy. They have accepted that we have a right to control new investment in the magazine publishing sector using a "net benefit to Canada" test. They have accepted that Canadian content is a legitimate part of this net benefit criterion. They have accepted that the Income Tax Act can continue to use

the concept of Canadian content as a legitimate means of determining advertising deductibility.

These are important and historic steps, honourable senators. For the first time, the United States has recognized that the protection and promotion of Canadian content is a legitimate Canadian objective in our bilateral dealings.

• (1500)

Concerns were raised during the second reading debate on Bill C-55 as to whether this bill, like other mechanisms used to restrict the access of split-run magazines to Canada, would be challenged by the United States. We can now assure this chamber that, under the terms of the agreement reached with the United States, Bill C-55 is secure from their challenge. The United States has given the Government of Canada written assurance that it will not take any trade action — either under the World Trade Organization trade agreements, NAFTA, or section 301 of the United States Trade Act — against the passage of Bill C-55.

Let me be perfectly clear, honourable senators, in saying that the government is convinced that what was agreed to is a good deal for Canadians and good for the future of Canadian culture.

During our second reading debate, Senator Spivak asked me about allegations that "Time Warner is not content with 98 per cent of the market; they want 100 per cent of the market. They are exercising their influence." Honourable senators, I am pleased to be able to report that they did not succeed in their efforts. American trade officials were indeed demanding unfettered access to Canadian advertising in magazines. They did not get that. Instead, the Government of Canada agreed to permit two controlled and limited forms of access to advertising services directed at the Canadian market.

First, there will be a *de minimis* exemption to the general prohibition in Bill C-55 which will allow up to 12 per cent of advertising in any American magazine to be directed at the Canadian market for the first 18 months after the act comes into force. For the next 18 months this will be raised to 15 per cent, and thereafter this will be raised to its final, maximum level of 18 per cent.

There will also be an exemption that will allow foreign publishers to have access to a greater percentage of the Canadian advertising services market, if they invest in Canada and if they create new businesses and produce a majority Canadian content publication. Acquisitions of Canadian magazines will, as in the past, not be permitted.

In order to allow the Canadian magazine publishers to adjust to the *de minimis* exemption, the Prime Minister has asked the Minister of Canadian Heritage to consult with the industry and recommend the best approach for a multimillion-dollar Canadian Magazine Fund. Those consultations are still taking place.

Did we get everything we wanted in these negotiations relations, honourable senators? The answer is no. It is no secret that we would have preferred a lower *de minimis* exemption, but the Americans wanted 100 per cent access. Ultimately, we agreed on a phased-in limit from 12 per cent to 18 per cent.

Senator Lynch-Staunton: You lost one nothing instead of ten nothing.

Senator Graham: I believe that, viewed as a whole, the agreement is balanced. It recognizes, finally, that there is nothing inconsistent or incompatible between a strong, open trade policy and an equally strong promotion of national culture. Not only did we achieve that recognition, we did so while simultaneously averting what could have been a crippling trade war.

Though Senator Poulin has already described the effect of the amendments being proposed to Bill C-55, I wish to take this opportunity to review them once again so that there is no misunderstanding about what is being done.

The first set of amendments adjusts the ownership requirements in clause 2 of the bill. With these changes, magazines with a majority Canadian ownership or a majority Canadian membership in the nature of directors and similar officers will be considered Canadian and therefore not subject to the proposed provisions of Bill C-55. Previously, 75 per cent of Canadian membership or ownership was required to escape the application of the legislation.

This change in definition of what constitutes a Canadian publisher makes it consistent with what is already in the Investment Canada Act. By lowering the threshold, the change should also attract foreign investment. It will lower the ownership constraints imposed on foreign interests wanting to invest in the Canadian magazine industry.

By any measure, this is a reasonable change. Traditionally when we have attempted to determine whether an entity was foreign controlled or foreign owned, the test or measurement was 50 per cent plus one. Hence, this change is consistent with the approach that we have taken in the past with other sectors of the economy. As I have said, it matches what is already contained in the Investment Canada Act.

The second amendment proposed a change to clause 20 of the bill. It really builds on the third amendment, which is the *de minimis* provision of 12 per cent, 15 per cent and 18 per cent, with which we are perhaps the most familiar. We know initially that a foreign publisher will be allowed up to 12 per cent of Canadian advertising, measured as a percentage of the total revenues of the magazine. This second amendment gives cabinet the power to make regulations to accurately determine the percentage of total revenues derived from advertisements directed at the Canadian market.

The method of measuring the percentage of revenues obtained from advertisements directed at the Canadian market was somewhat clarified in the recent exchange of letters between Canadian Ambassador Raymond Chrétien and U.S. Trade Representative Charlene Barshefsky. Both letters contained the following sentence:

The percentage of advertising space containing advertisements directed primarily at the Canadian market in

the Canadian issue of the periodical will be deemed to represent the same percentage of advertising revenues earned in Canada by that issue of the periodical.

The rule of thumb, honourable senators, is to calculate the volume of all advertisements in the magazine and compare that to the percentages that are basically Canadian advertisements directed at the Canadian market. That percentage will be deemed to equal the percentage of total revenues that the U.S. publisher is receiving from those advertisements.

The third amendment is the *de minimis* exemption, which I have already mentioned and which for many is a key modification to this legislation.

• (1510)

Without going into details on this provision, which are already very well known, I wish to remind honourable senators that without Bill C-55, foreign publishers could include in their publications unlimited Canadian ads and they could do so without having to produce a single line of Canadian content.

As we consider this legislation, we should keep in mind the stark reality of the alternative if it does not pass into law.

The fourth amendment incorporates into Bill C-55 an exemption clause allowing foreign investors complete access to the Canadian advertising market if they receive approval under the Investment Canada Act to establish and publish a magazine in Canada. Approval will only be obtained if it is determined that the investment offers a "net benefit" to Canada. What constitutes a "net benefit" is spelled out in some detail in a policy statement released late last week by the Department of Heritage. It is also the subject of discussion in the exchange of letters I have already referred to.

In her letter, U.S. Trade Representative Charlene Barshefsky acknowledges that, when reviewing an investment for "net benefit," there should be "a substantial level of original editorial content for the Canadian market contained in each title," and that the decision will also depend on undertakings by the foreign investor "to expand or establish a place of business in Canada" which would, in her words, "create an employment infrastructure by directly employing an editorial staff and support staff composed of people resident in Canada."

Net benefit could also include, according to Ms Barshefsky, support of the "infrastructure in the publishing sector by having their titles edited, typeset and printed in Canada." As a result of this change, the only way that a foreign publisher will be able to sell more than 18 per cent advertising aimed at the Canadian market is if it invests and creates a new business here, hires Canadians and produces magazines with substantial Canadian content.

The Government of Canada, in its policy paper, has already made it very clear that substantial Canadian content means majority Canadian content.

These are the amendments being made to Bill C-55 as a result of the agreement reached between Canada and the United States. The agreement was an honourable and positive conclusion to a very difficult problem. It has been seen as such by a great many people. In addition to numerous supportive newspaper editorials, there was a statement from Ron Atkey which I want to draw to the attention of my colleagues. Mr. Atkey, as many Senate colleagues would know, is a former Conservative cabinet minister and is now a lawyer with Osler, Hoskin & Harcourt specializing in international business transactions and international law. Mr. Atkey states, as quoted in *The Globe and Mail* of May 27, 1999:

This is a significant achievement. The U.S. has never agreed in any cultural field to any new content requirements. It sets a precedent.

So let us take, honourable senators, some satisfaction in what we have accomplished instead of complaining that we did not achieve absolutely everything that we set out to do. The fact of the matter is the less-than-perfect Bill C-55, as amended, is legislation that is deserving of our support.

During the second reading debate, honourable colleagues opposite asked me to state clearly for the record the principle of Bill C-55. They wanted to know what was off the table in the discussions with the Americans. In response, I said:

The principles enunciated in this bill are to preserve Canadian culture and to give Canadian magazines, their writers and their editors a chance to ply their trade and tell us more about what being Canadian really means. That is the principle behind the bill.

Nothing in these amendments changes that principle. Throughout the negotiations with the Americans, our position was very clear: We were not prepared to make a deal at any price. We were not prepared to sacrifice culture for commercial considerations.

We believe very strongly that a country need not sell its cultural soul bilaterally in order to sell its products globally. Globalization and a strong national culture can coexist. Now, finally, in the negotiations around Bill C-55, the Americans have fully and finally understood and agreed.

I believe this is a good deal for Canada. We are standing up for Canada on every front. I believe that Bill C-55 as amended will enable us to continue to have strong eloquent voices speaking for and to Canadians about the issues of concern to us.

For these reasons, I invite honourable senators to join me in supporting this bill as amended.

Senator Lynch-Staunton: Honourable senators, would the minister entertain a question?

Senator Graham: Absolutely.

Senator Lynch-Staunton: My first question is this: The Canadian government believes that the definition of the word "substantial" means "majority." They have made that claim. Can the minister indicate to us that the Americans have agreed with that interpretation so that when the word is applied, it is applied on the same definition?

Senator Graham: That has been made perfectly clear by the Canadian representatives to the American government.

Senator Lynch-Staunton: The Canadian representatives tell us that "substantial" means "majority." Do the American negotiators agree with that interpretation? If so, where is that in writing, the same way as Canada has put it in writing?

Senator Graham: The American trade representative said "substantial." The Canadian representatives have stated, as I have said in my remarks, that "substantial" means "majority."

Senator Lynch-Staunton: Honourable senators, that is correct. Could the minister answer the question? We agreed that both letters use the word "substantial." Canadians say elsewhere that "substantial" means "majority." Where do the Americans say that "substantial" means "majority"?

Senator Graham: This has been a long and arduous negotiation, honourable senators. The Canadian authorities take the Americans, after this very difficult negotiation, at their word.

Senator Lynch-Staunton: The question is, where do the Americans say formally and officially that the word "substantial" is being interpreted by them the same way as it is being interpreted by Canada?

Senator Graham: I am trying to make it perfectly clear that the Canadian delegation made it clear to the American representatives that "substantial" means "majority."

Senator Lynch-Staunton: Where have the Americans made it clear to Canadians that they agree? The answer is there: Nowhere. This is where the whole deal will bog down.

Senator Graham: Obviously, they agreed. The Canadian representatives said "substantial" means "majority" and the Americans understood this when they signed the agreement.

Senator Lynch-Staunton: There is nothing in the agreement defining the word "substantial." That all came out after. We shall see in time.

• (1520)

Because of what the U.S. trade representative says in the letter, the minister believes that there will be no challenge under NAFTA. Does that include the inability of a foreign corporation to launch a claim under Chapter XI of NAFTA?

Senator Graham: Yes.

Senator Lynch-Staunton: Could the Leader of the Government in the Senate show me where that exists in the letter? The interpretation given by outside experts is that when the trade representative talks about the United States, she talks about the United States government, and cannot commit citizens and corporations to that agreement.

Senator Graham: I have been assured by Canadian authorities that that is the case, honourable senators.

Senator Lynch-Staunton: There is always assurance by Canadian authorities, but it is the Americans who will challenge that interpretation. We are looking for American assurances equivalent to those being given by Canadian authorities to one another. We have received non-answers. However, I will try a third time. Three strikes and I will be out.

The agreement states that if a party, on its own, simply stating that it is being violated by the other party, without an appeal to challenge that claim, withdraws from the agreement, the agreement becomes null and void after 90 days and the rights and obligations of each signatory will revert to what they were at the time of signature, which in this case is June 3.

Bill C-55 has yet to be passed. Do the rights and obligations which exist prior to June 3 include rights and obligations under Bill C-55, which has yet to be passed?

Senator Graham: Yes.

Senator Lynch-Staunton: Can the minister explain how he can be so definite that the law of the land does not subject it to international agreements?

Senator Graham: Honourable senators, we shall see the conclusion of this debate later today when we vote. I want to assure all honourable senators that what I have said is exactly the case.

Senator Lynch-Staunton: Three strikes and I am out.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, moving into the second inning, in his address the honourable senator stated that this agreement with the Americans was a great achievement in terms of the Americans now recognizing that Canada can protect its culture, or words to that effect. Can the minister elaborate on that and, in so doing, indicate which paragraph in the agreement such a recognition is agreed to or is asserted by the Americans?

Senator Graham: Honourable senators, we can protect our culture. The consequences of not passing Bill C-55 as amended would be very serious ramifications for trade between our countries, be it in the steel sector, the lumber sector, the plastics sector or the apparel sector. The terms of Bill C-55 and of the agreement signed between Canada and the United States preserve our culture by achieving the best possible deal.

Senator Kinsella: The honourable senator is unable to point to a specific paragraph in the treaty that speaks to this aspect. This is an interpretation.

On page 4 of the agreement, as contained in the letter over the signature of Ambassador Raymond Chrétien, the ultimate paragraph reads:

If either party considers that the other party is not in compliance with this Agreement, that party may withdraw from the Agreement by written notification to the other party. The Agreement shall become null and void 90 days after such notification and, at that time, the parties' respective rights and obligations will return to those that existed immediately prior to the entry into force of this Agreement.

If this agreement is to be taken as having come into force on June 3, 1999, when the letter was signed, would the honourable senator explain what is the *status quo ante* June 3, 1999? Is it Bill C-55 as a legislative proposal unamended, is it Bill C-55 as a legislative proposal with proposed amendments, or is it no Bill C-55?

Senator Graham: It would be the proposed legislation with amendments.

Senator Kinsella: Is the honourable senator telling us that if the Americans find fault with this agreement, in the *status quo ante* to which we will revert, we have given away 18 per cent of Canadian advertising to the Americans?

Senator Graham: When the Americans signed the agreement, they were already aware of the bill with its proposed amendments.

Senator Kinsella: If there is disagreement between Canada and the United States on the implementation of this treaty, the provision to which I have referred on the bottom of page 4 says that within 90 days of the United States telling us that they do not agree, be it on the issue that we have just discussed or on some other issue, we will return to the situation which existed prior to June 3. This treaty will be out the window. The Leader of the Government in the Senate has just told us that this agreement will be out the window but the Americans will have Bill C-55 as amended. They get 18 per cent for nothing.

Senator Spivak: Honourable senators, the goal of Canadian policy was to have Canadian magazines telling Canadian stories. The minister herself stated that we do not want foreign magazines to become Canadian; we want our own Canadian magazines. Given that Hearst and other publishers have already said they intend to come in here, would you consider the goal of protecting Canadian culture to be accomplished if the majority of magazines publishing Canadian content are foreign-owned? That could very well be the case. The magazine publishing industry says that up to 70 per cent of their industry might be demolished.

Senator Graham: Honourable senators, we are talking about net benefit to Canada. The consequences of a trade war would be very serious. The Government of Canada negotiated what it considered to be the best possible deal and arrangement for Canadian publishers.

I have outlined the conditions under which American-owned publications can enter the Canadian advertising market. I have also said that there will be a fund established to assist Canadian publishers, the amount of which is still being discussed and negotiated with the Canadian publishers.

Senator Spivak: With all due respect to the Leader of the Government, eminent witnesses and one of the fathers of the Free Trade Agreement, Donald MacDonald, pooh-poohed the amount of damage that could be inflicted in a so-called trade war. We have never heard figures relating to the threats.

• (1530)

We do not know. We have heard that they cannot be anywhere near the sums that have been mentioned. Even one of the American trade officials said, "Well, we know how to get what we want now. All we have to do is threaten and bully, and we can get other sectors."

Leaving that aside, I have another question. There has also been a report in the press that the Americans feel that they ought to be treated just as every other company is treated here in Canada. Therefore, if Canadian publishers are to get a subsidy, then they are absolutely entitled to a subsidy.

Since the subsidy was not part of the legislation, as has been stated here many times, and is beyond the legislation, what legal basis do we have in Canada? Where is our legal protection for saying to the Americans, "You are not entitled to the subsidy"?

Senator Graham: When we talked about the subsidies, we talked about subsidies to Canadian publishers, not American publishers.

Senator Spivak: That may be true, and I understand what has been talked about. However, the Americans have now stated that if they come in here and they have majority ownership of a company and adhere to all the rules, they are then entitled to the same subsidy as the Canadians. I am asking you whether this is an accurate position or an inaccurate position. Where is the legal protection which would prevent Canadian taxpayers from subsidizing American companies to come here and take our Canadian culture from us? Where is that legal basis?

Senator Graham: Honourable senators, that protection will be provided in the arrangements that are to be made and the details will be made public when the fund is announced.

Senator Spivak: With all due respect, those details are concerning the Canadian government looking at what it might give to its Canadian publishers. That is not the question. The American companies have now said that if they are operating in Canada as a Canadian company, they are entitled to subsidies. Where is the legal defence against that? What piece of legislation or agreement will you use to say, "No, you cannot have that subsidy; it is just for the Canadians"?

Senator Graham: Honourable senators, as I have said on other occasions, and I repeat again today, the arrangements for

subsidies to Canadian publishers do not constitute any part of Bill C-55 and will be dealt with separately.

[Translation]

Senator Rivest: Honourable senators, now that the Government of Canada has given in on the issue of magazines in the cultural sector, what arguments will it use to prevent the Americans from obtaining similar agreements in other sectors of cultural activity?

[English]

Senator Graham: Honourable senators, we have not given in. We have agreed to an arrangement that, as I have said, is less than perfect. It is not 100 per cent perfect. However, we have achieved an agreement with the Americans which has averted what could have been a very serious trade war in major sectors of our economy.

[Translation]

Senator Rivest: If the agreement is not 100 per cent perfect, what guarantees will those in the world of film, recording, theatre and all other avenues of cultural expression have that the Government of Canada will not sign, to their detriment, less than perfect agreements in the publishing sector? There are no guarantees. You have contradicted the Government of Canada's claims that its policy was to affirm Canada's cultural sovereignty vis-à-vis the United States. That is what you have done.

[English]

Senator Graham: Let me talk about the film industry. Major assistance is provided to the film industry by the Government of Canada. That industry is alive and well in various areas of the country, and certainly in Senator Rivest's province of Quebec. Senator Oliver would know that in the province of Nova Scotia we have five or six sound stages, whether they be in Shelburne, Halifax, Dartmouth or Sydney. Assistance is being provided to the film industry and to those segments of our culture which are most in need.

[Translation]

Senator Rivest: You quoted a former Progressive Conservative minister as saying that the agreement signed by the Government of Canada looked good. Were you congratulated by Canada's trade partners — in particular, France and Portugal, leaders in protecting special cultural identity — on the Canadian government's attitude? These governments stood shoulder to shoulder with Canada against the cultural invasion by the United States. Were you congratulated by the Common Market nations and other countries fighting to defend their cultural sovereignty, when Canada gave in?

[English]

Senator Graham: Honourable senators, I am sure that the congratulatory messages will be on the way as soon as Bill C-55 is passed into law.

You say a former Canadian minister said that there were difficulties. Let me quote again a former Conservative cabinet minister, Mr. Ron Atkey, who will be well known by most senators. Mr. Atkey, the former Conservative cabinet minister who now specializes in international business transactions and international law, says that "this is a significant achievement. The U.S. has never agreed in any cultural field to any new content requirements. It sets a precedent."

I apologize for repeating a quotation I used already in my remarks, but I thought it needed emphasis and underlining for my honourable friends opposite.

Senator Lynch-Staunton: Who was he representing before the committee? If we are to start a new inning, I will try again with a question and a comment.

I find this debate distressing, disturbing, and even distasteful. Arguments have been made today to support amendments which were rejected only three months ago when they were raised.

Senator Oliver: Exactly.

Senator Lynch-Staunton: I quote *Debates of the Senate*, March 18:

Hon. Roch Bolduc: Honourable senators, am I to take it that the government has made up its mind? Regardless of pressures by the steel, textile or some other industry, has the decision been made to go ahead with the bill? Is that the government's decision?

Senator Graham: Honourable senators, I said no matter what pressures are applied. Is the opposition not listening?

Senator Lynch-Staunton: The government will not give in?

Senator Graham: I am the sponsor of the bill and, as far as I am concerned, the bill stands as it is.

There we had a categorical confirmation that the Government of Canada would stand up against the threat of trade sanctions. To reconfirm that, Senator Graham later on said:

It is important for us to understand, as Canadians and as senators, that we must stand up for our country. We can only be bullied so far. Enough is enough! Let us get on with business and support this piece of legislation.

We agreed. We said we should go into a clause-by-clause discussion. If the issue here is a principle of Canadian culture and Canadian identity, we will set aside our disagreements on some of the actual wording because the principle is more important. Let us get on with the bill. The government representative here convinced us that no matter what the Americans said, no matter what bullying confronted us, we would not put up with it.

We are told today, less than three months later, that we would have been subjected to the most heinous trade war imaginable.

Industries would have collapsed, and God knows what else. By ceding to that, we ceded to an illegal trade war. Senator Joyal told us that just yesterday, and other government spokesmen have told us repeatedly that trade sanctions of this nature are illegal under every international agreement we have signed, be it WTO or NAFTA. In effect, by caving in, we have caved in to the threat of an illegal action.

• (1540)

What do you think the Americans are saying about us today?

Some Hon. Senators: Hear, hear!

Senator Graham: I find it rather ironic that my friends opposite are on that side of the debate. One would think that the champions of free trade would be on this side of the debate.

Senator Lynch-Staunton: It has nothing to do with free trade.

Senator Graham: We as a government listen to every segment of society. We as a government listen to industry, including the steel industry and the apparel industry. They warned us of a very serious trade war that could emerge between our two countries. We listened, we took action, and we made accommodations. That is why this Liberal government is so successful.

Senator Spivak: Honourable senators, I am afraid I did not put my earlier question properly. However, I have since received some advice from a former minister of trade.

The question I wish to ask is this: When a Canadian company is operating in Canada and produces a product, not a service, under NAFTA, they are entitled to the same treatment as Canadian companies. How then will you prevent those foreign companies who are coming in from receiving a subsidy when, under NAFTA, they are entitled to that same favourable treatment?

Senator Graham: The rules and regulations with respect to the "fund" are still being negotiated with the publishers.

I am glad that Senator Kelleher was able to provide the honourable senator with advice. He is a distinguished former minister of trade. Speaking of former ministers of trade, I only wish Senator Carney were here, because I am sure that if she were, she would be on our side of the question. It was rather shameful that Senator Carney was left out of those tenth anniversary celebrations or observances in Montreal last week.

Senator Spivak: Any agreement negotiated or in place between the Government of Canada and the magazine publishing industry is subject to NAFTA. Is that not the case with every industry? If the foreign publishers come to Canada and they are producing what is termed a Canadian product, they are then entitled to favourable treatment in the same way as Canadian companies.

What I would like from the Leader of the Opposition is an argument that refutes that view. I do not wish for this to happen, I believe that this will happen.

Senator Graham: I presume the honourable senator meant the Leader of the Government, not the Leader of the Opposition. However, perhaps he would like to take a crack at the question.

Honourable senators, I have been assured that we are in total compliance with the NAFTA.

Senator Lynch-Staunton: That is what you said about MMT.

Senator Kinsella: I wonder whether the minister could give us some clarity to the matter that was raised as a result of his address to us and the question of the Investment Canada Act?

My understanding of prime ministerial prerogative relating to the machinery of government does not give the Prime Minister the authority to expand a minister's mandate to areas of responsibility beyond a statutory provision.

A serious issue in this debate is the designation of the minister pursuant to the statute. The minister who is responsible pursuant to the Investment Canada Act is defined by statute.

In terms of the prerogative of the Prime Minister to appoint his ministry, how will the machinery of government deal with the problem of two ministers having responsibility when the act only provides for a single minister with responsibility?

Senator Graham: Senator Kinsella raises an interesting point. My understanding, honourable senators, is that there will only be one minister on this file.

Until now, the Minister of Canadian Heritage has been required to provide an assessment on the benefits of allowing foreign investment in cultural industries to the Minister of Industry. However, with this transfer of responsibility, that step will be removed.

I understand what the honourable senator is saying about governments. I also understand that the assignment of authority is perfectly within the authority of the Prime Minister.

The Investment Canada Act has always required that investments in cultural industries be compatible with national cultural policies. The Minister of Canadian Heritage has always been consulted on foreign investment cases involving cultural industries. The transfer of authority for review and approval of these investments will streamline the process for investors in the cultural sector.

Senator Lynch-Staunton: I have a supplementary question to that response, as I raised the matter. Whether or not we agree with the policy of splitting the responsibilities of one department between two ministers, under what authority can the Prime Minister take such action unilaterally?

My understanding of the act, and I quoted the appropriate section 3, is that there can only be one minister designated by the Governor in Council as a minister for the purposes of this act.

Since the regulatory powers of section 35 do not include an authority to shift responsibilities from the Department of Industry

to any other department, under what authority can this be done other than through an amendment to the act?

Senator Graham: Honourable senators, the Prime Minister has announced that, while the Minister of Canadian Heritage hitherto would be providing an assessment or advice to the Minister of Industry, she will have the sole responsibility on matters of this kind.

Senator Lynch-Staunton: That is not the question. I know what the Prime Minister said.

I am asking under what authority can he transfer the decision-making process of Investment Canada on cultural industries to a minister who is not the Minister of Industry other than through an amendment to the act?

I am not questioning what the Prime Minister said. I want to know how his decision, whether or not one agrees with it, can be implemented?

Senator Graham: Honourable senators, the Prime Minister has the authority to make that decision.

Senator Lynch-Staunton: Can the minister explain to us what authority allows him to do that, to take an act passed by Parliament which says specifically that only one minister is in charge of that act, and then unilaterally say, "Well, for part of that act, I will pass those responsibilities on to another minister"? Where does a parliamentary approved act allow that?

Senator Graham: Honourable senators, it will be only one minister, the Minister of Canadian Heritage.

Senator Lynch-Staunton: No, it will be two ministers sharing the responsibilities of one act, when the act specifies that only one minister is responsible for the entire act.

Minister Copps is now involved in a consulting process, which is fine. I would hope that any decision taken by Investment Canada pursuant to this act is a result of consultation by all ministers and others directly involved with whatever industry is being reviewed. However, we are going one step further. We are going beyond the consulting process and shifting the decision-making process out of the hands of Industry Canada into the hands of the Department of Canadian Heritage. I maintain that a unilateral action of that nature cannot be undertaken. That can only be done by an amendment to the act.

Senator Graham: Honourable senators, that is Senator Lynch-Staunton's opinion. I am sure the Prime Minister has consulted with the appropriate authorities, and that is his decision. There will be one minister responsible for this particular aspect of the legislation, and it will be the Minister of Canadian Heritage.

Senator Lynch-Staunton: Since the Prime Minister already dismisses whatever Parliament wants anyway, I am not surprised to hear that.

Has the decision already been taken? If so, in what form? Can we see the document confirming that decision?

Senator Graham: I would be happy to provide the document. I do not have it with me at the present time. I certainly shall provide it in due course.

Senator Kinsella: Not only are the provisions of the Investment Canada Act brought into play here, but provisions of the Financial Administration Act also come into play. What will be the application of the Financial Administration Act to the role to be played by the Minister of Canadian Heritage? How will the function that is to be exercised by the Minister of Canadian Heritage be financed? How will the Financial Administration Act and funds be assigned for that discrete activity?

Senator Graham: I am sure that it will be done under the budgetary provisions of the Department of Canadian Heritage.

Senator Kinsella: Does the minister not think that the committee or the Senate ought to have had the opportunity to delve into the unfolding? These are technical questions. Usually, technical questions are delved into in committee. These are the problems that we get into when we rush a piece of legislation, in the way that this one is being rushed.

Senator Graham: Honourable senators, Senator Kinsella and other honourable senators who attended the meetings had every opportunity to consult on those questions with both the Minister for International Trade and the Minister of Canadian Heritage, as well as their officials.

Senator Lynch-Staunton: They stonewalled as much as you did.

Senator Kinsella: I find it somewhat disconcerting that the principle of the rule of law, whether applied in domestic legislation or in terms of international law, is getting such short shrift in this matter. The testimony that we have had — indeed, including the testimony from a minister of the Crown — was to the effect that pursuant to international law, to wit, the trade agreements and the WTO, what the Americans were threatening was illegal.

Senator Lynch-Staunton: Right.

Senator Kinsella: Canada seems to be saying, "The rule of law does not matter. It is the schoolyard bully who gets his way. It is might that makes right, not the rule of law." I hope — and I would like very much for the minister to set the record clear — that we are not giving in, and that we will stick up for what we most respect, namely, the rule of law, even when we are dealing with hegemonies like the United States of America.

Senator Graham: Honourable senators, the United States has given the Government of Canada written assurance that it will not take any trade action against Bill C-55 under the World Trade Organization agreements, NAFTA, or section 301 of the United States Trade Act.

Senator Kinsella: A long-standing position of the Government of Canada has been that Canadian advertisements will not be available to American publications.

Senator Lynch-Staunton: It is a 40-year-old policy.

Senator Kinsella: This amendment will now give them 18 per cent of the pie. The reason you have given them 18 per cent of the pie is that they have threatened illegal trade actions against Canada, which was nothing but a bluff. You fell for it.

Senator Lynch-Staunton: Silence is golden.

Hon. Fernand Robichaud (Acting Speaker): If no other honourable senator wishes to participate in the debate, then this matter will be voted upon at 4:15 p.m. as per the arrangement which has been made, and we will proceed to other business.

[Translation]

CRIMINAL CODE CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—FIRST READING

The Hon. the Acting Speaker informed the Senate that a message had been received from the House of Commons with Bill C-251, to amend the Criminal Code and the Corrections and Conditional Release Act.

Bill read first time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Cools, bill placed on the Orders of the Day for second reading on Thursday, June 10, 1999.

CRIMINAL RECORDS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Fraser, seconded by the Honourable Senator Ruck, for the second reading of Bill C-69, to amend the Criminal Records Act and to amend another Act in consequence.

Hon. Pierre Claude Nolin: Honourable senators, by virtue of sections 5, 6 and 7 of the Criminal Records Act, a pardon allows persons found guilty of a criminal offence, who have served their sentence and proven that they have become law-abiding citizens, to have their records sealed. This helps facilitate the social reintegration of offenders.

Under the Criminal Records Act, the National Parole Board has the power to deliver, grant, refuse or revoke a pardon relating to an offence against a federal law or its regulations. In addition, the Canadian Human Rights Act forbids any discrimination toward persons who have been pardoned by the Solicitor General of Canada. It is important to specify that pardon does not erase the existence of the sentence, and that it can be revoked automatically if the individual is subsequently convicted of a criminal act.

The amendments the government proposes to the Criminal Records Act via Bill C-69 are aimed at enhancing the safety of the Canadian public. They are aimed particularly at preventing sex offenders from holding positions of trust involving children and other vulnerable groups. Bill C-69, therefore, provides the following: imposition of a one-year waiting period after a request for pardon has been turned down; automatic revocation of a pardon upon subsequent conviction for a mixed offence, that is one liable to either summary conviction or indictment. There is also a provision enabling notations to be made in the automated criminal conviction records retrieval system of the records of pardoned persons in order to allow the disclosure of these records when individuals are screened for positions of trust with children or other vulnerable groups.

Section 5 of the Criminal Records Act currently provides the effects of granting pardon, such as the sealing of a delinquent's criminal record. Section 6(2) provides that the records of an individual who has received a pardon that are in the custody of the Commissioner of the Royal Canadian Mounted Police, a department or a federal agency, must be filed separately from other records pertaining to criminal matters. In addition, they may not be disclosed, their existence revealed or the sentence revealed without the prior authorization of the Solicitor General of Canada.

Clause 6 of Bill C-69 proposes an additional provision concerning the particular case of records of pardoned sexual offenders. The new section 6.3 of the Criminal Records Act provides that the Commissioner of the RCMP may include in the automated criminal conviction records retrieval system maintained by the RCMP a notation informing the police doing research for screening purposes that an individual has a sealed record for an offence of a sexual nature in respect of which a pardon has been granted or issued.

• (1600)

It is important to note that this recommendation was unanimously approved by the federal, provincial and territorial ministers of justice at their October 1998 meeting in Regina.

Thus, all organizations providing services for children and wanting to hire volunteers or an employee may now find out whether an applicant has been pardoned for a sexual offence. Under subsection 6.3(2), this verification may be done only on two conditions: first, if the job would put the candidate in a position of authority or trust relative to children or vulnerable persons; and second, if the applicant has consented in writing to the verification.

If the verification indicates that the person has been sentenced for a sexual offence, the RCMP or police conducting the verification may ask the Commissioner of the RCMP to provide the Solicitor General with any record of a conviction of that applicant. Under new subsection 6.3(5) the Solicitor General may

decide on the relevance of disclosing the content of the record. Should he authorize its disclosure, the RCMP or police must then disclose the information to the organization requesting it.

According to new subsection 6.3(7), however, an organization that acquires information under this section shall not use it except in relation to the assessment of the application.

Honourable senators, I am fully in agreement with the objectives and principles of Bill C-69. Clearly, our children and other vulnerable members of our society will be better protected by these new measures.

The aspect of Bill C-69 that addresses the flagging of the criminal conviction records of a person convicted of a sex offence and the release of his record is similar to Bill C-284, which is still under study in the other place by the Standing Committee on Justice and Human Rights. The underlying policy shared by Bill C-284 and Bill C-69 has been strongly supported by victim defence groups.

On the other hand, certain associations, such as the Elizabeth Fry Society and the Criminal Lawyers' Association, might have some reservations on the policy on which Bill C-69 is based.

What concerns them is that these bills might jeopardize the integrity of the pardon system and its role in the rehabilitation and reintegration of offenders. According to them, it has not been proven to their satisfaction that the present legislation offers insufficient protection to society, and that anything needs changing. The Criminal Lawyers' Association has recommended that, if these measures were adopted, they ought to at least include a provision that the individual involved must consent to disclosure, as is the case in Bill C-69.

Other groups, such as the John Howard Society, the Saint Leonard Society and Volunteer Canada, shared this concern when Bill C-284 was being looked at as far as the integrity and value of pardons and their role in rehabilitation are concerned. The John Howard and Elizabeth Fry societies feared that reliance on access to pardon files might lead to a false sense of security, by making secondary other key considerations for selecting people for positions of trust with children or other vulnerable groups. The comments of these three organizations suggest that they prefer Bill C-69 over Bill C-284, however. Bill C-69's preservation of ministerial discretion in connection with disclosure of records, and the requirement of the pardoned individual's consent for disclosure seem to be the main reasons for this preference.

There is no doubt, honourable senators, that the Standing Senate Committee on Legal and Constitutional Affairs will have to consider these matters.

In closing, I would like to take a look at the issue of the regulations with respect to enforcement of the proposed new section 6.3 concerning notations in the criminal record.

Clause 8 of the bill would amend section 9.1 of the Criminal Records Act so that the new provision with respect to making notations in the records of individuals who have received pardons following a conviction for a sexual offence is properly enforced. Thus, the government will be able to make regulations: listing offences covered by the term "sexual"; respecting the making of notations in respect of criminal records and records of conviction and the verification of such records; defining the expressions "children" and "vulnerable persons"; and, respecting the consent given by applicants under the new section 6.3 to the verification of records and the disclosure of information contained in them to requesting organizations, and prescribing the factors that the Solicitor General must have regard to in considering whether or not to authorize a disclosure of the record of a person who has received a pardon.

I understood from Senator Fraser's speech that the regulatory authority defined in this clause of Bill C-69 was a matter of government policy. Several questions come to mind.

First of all, why would the list of offences in the clause be listed, amended, extended or shortened by the Governor in Council?

It seems to me, honourable senators, that we should be able to draw up such a list. I fail to see why responsibility for amending the list of offences covered in the bill would fall to the Governor in Council.

Second, why let the Governor in Council define the words children and vulnerable persons? It seems to me that we could define that here. I leave to the Governor in Council the regulations concerning the applicant consent process. There is nothing of substance in the regulations. The Governor in Council is told to have the mechanism for the granting, disclosure of the individual's consent in place. No substantive rights are created with the regulations. Why is the Governor in Council being given the power to oversee and define the ministerial authorization process. It seems to me there is almost a conflict of interest. Parliament should oversee this discretionary power. Why leave it up to the Governor in Council to describe how this discretionary power will be exercised? Why could this discretionary power only be subject to a regulatory decision?

Honourable senators, I have set out my concerns with respect to this bill. I support its philosophy and objectives. We are asking Parliament to authorize excessive regulatory power. Unfortunately, it is the fate of many bills. I am not pointing the finger at one government or another; it is a disease, a cancer. We often consider bills on the run. We put a few questions to officials and to ministers and we are satisfied with the responses. Thank God that recently we have decided to include in our bills clauses providing for review after proclamation, because we have realized that there is too much regulatory power. Without wanting to limit it, after sufficient time has passed, we could look at how the Governor in Council or the minister responsible for the law have behaved or whether the law has achieved its objectives.

Therefore, honourable senators, I recommend that you support second reading, and I trust that we shall be able to fully examine this bill in committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Fraser, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[English]

• (1610)

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—
DEBATE SUSPENDED

On the Order:

On the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999;

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the bill be not now read a third time but that it be amended:

(a) on pages 10 to 12, by deleting Part 3; and

(b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

Hon. Wilfred P. Moore: Honourable senators, we cannot agree with the motion proposed by the honourable senator to amend the bill for the following reasons: Part 3 of this omnibus budget bill contains an essential provision for the extension of binding arbitration for another two years, until June 2001. Let me remind the honourable senator that this bill is important from two perspectives.

First and foremost, this provision is consistent with the fiscally responsible approach to our labour relations. We must continue to be concerned that binding decisions by third parties could jeopardize the government's control of its fiscal priorities. Managing payroll costs for the public service remains a fundamental and ongoing concern. This government has made considerable fiscal gains, and we must remain vigilant if we are to respond to the priorities of all Canadians.

This is one reason why we are proposing that the suspension of binding arbitration be extended throughout the next round of collective bargaining. However, this reason does not stand alone.

The second rationale is that this provision is being proposed as we introduce several important initiatives over the next few years aimed at reforming the way we manage human resources in the public service of Canada. One of these important initiatives is the introduction of a new gender-neutral job classification plan. It is called the Universal Classification Standard or UCS.

I agree with the honourable senator that streamlining our public service job classification structure is necessary and long overdue. That is why, when we do it, we wish to do it right the first time. We should like to do it through negotiations with our unions and in a fiscally responsible manner. This is why the government must continue to manage the agenda. It is not desirable to leave all or any of this to a binding third party.

In order to implement UCS, we will need to negotiate, with our unions, new rates of pay and conditions for converting to the new plan. The critical challenge will be to align pay with work of common value. This is not a simple challenge. It will require the government and the unions to negotiate in good faith. It will require that these two parties take a committed approach to the negotiations.

During the collective bargaining process, every effort is made by the parties to reach a negotiated settlement. When required, the employer or the union can seek the help of a third party, such as fact finders, conciliators and conciliation boards, to assist them in resolving outstanding issues.

I should like to point out that, since we returned to the negotiating table in 1997, this government has successfully negotiated, sometimes with the help of conciliators, collective agreements for over 97 per cent of its unionized employees. This includes agreements for essential occupational groups, such as healthcare workers and for groups where the market-place is highly competitive, such as our computer systems workers. In fact, we reached a second negotiated settlement just this past month with these critical computer specialists. These results, through negotiated settlements, are a significant achievement, and it was accomplished in the absence of binding arbitration.

[Translation]

The Hon. the Acting Speaker: Honourable senators, I must interrupt Honourable Senator Moore and suspend the sitting as agreed to yesterday on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Kinsella, in order to proceed with the vote on Bill C-55.

Debate suspended.

[English]

• (1630)

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

REPORT OF COMMITTEE ADOPTED

On the Order:

On the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Callbeck, for the adoption of the twelfth report of the Standing Senate Committee on Transport and Communications (Bill C-55, respecting advertising services supplied by foreign periodical publishers, with amendments) presented in the Senate on May 31, 1999.

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Lynch-Staunton, that the Report be not now adopted, but that it be referred back to the Standing Senate Committee on Transport and Communications to hear witnesses on the amendments proposed, as the amendments radically alter Bill C-55.

The Hon. the Speaker: Honourable senators, the first vote is on the motion in amendment.

Motion in amendment negated on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Kelly
Angus	Keon
Balfour	Kinsella
Beaudoin	Lavoie-Roux
Bolduc	LeBreton
Buchanan	Lynch-Staunton
Cochrane	Meighen
Cohen	Murray
Comeau	Nolin
DeWare	Oliver
Di Nino	Rivest
Doody	Roberge
Eyton	Robertson
Forrestall	Rossiter
Ghitter	Simard
Grimard	Spivak
Gustafson	Stratton
Johnson	Tkachuk—37
Kelleher	

NAYS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bryden	Maheu
Butts	Mahovlich
Callbeck	Maloney
Carstairs	Mercier
Chalifoux	Milne
Cook	Moore
Cools	Pearson
Corbin	Perrault
De Bané	Pitfield
Fairbairn	Poulin
Ferretti Barth	Poy
Fitzpatrick	Robichaud <i>(L'Acadie-Acadia)</i>
Fraser	Robichaud <i>(Saint-Louis-de-Kent)</i>
Gill	Ruck
Grafstein	Sparrow
Graham	Stewart
Hays	Stollery
Hervieux-Payette	Taylor
Joyal	Watt
Kenny	Whelan
Kirby	
Kroft	
Lawson	Wilson—48

ABSENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, we are now back to the main motion.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):
On division.

Motion agreed to and report adopted, on division.

THIRD READING

Hon. B. Alasdair Graham (Leader of the Government):
Honourable senators, I move the third reading of Bill C-55.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):
On division.

Motion agreed to and bill read third time and passed, on division.

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999;

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended:

(a) on pages 10 to 12, by deleting Part 3; and

(b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

Hon. Wilfred P. Moore: Honourable senators, I will continue my remarks with respect to the proposed amendment to Bill C-71. As I was saying, these results through negotiated settlements are a significant achievement, and it was done in the absence of binding arbitration.

As we modernize the Public Service of Canada, the government must continue to balance the needs and priorities of Canadians, as well as those of the employees who serve them. By extending the suspension of binding arbitration, we will ensure that this balance is maintained. The ultimate goal of this government is to provide Canadians with responsive service at a reasonable cost.

Hon. James F. Kelleher: Honourable senators, I am pleased to rise today to speak to Bill C-71, a bill that implements minor and selective tax reductions for Canadians. As all honourable senators well know, minor tax reductions will not bring about an improvement in our poor productivity record, according to the Industry Minister, and I quote:

Over the last 25 years, Canada has had the lowest rate of productivity growth in the G-7.

It is for this reason that I will speak for about five minutes on Canada's productivity problem and the need to address productivity decisively through tax reductions and expanded trade.

• (1640)

Honourable senators, many Canadians and parliamentarians are struggling with conflicting information on whether or not Canada has a productivity problem. The answer is, yes, Canada does have a productivity problem. The conflicting information is best addressed in a recent report of the World Bank:

On the productive wealth of industrialized countries, countries such as Australia and Canada, with thinly populated economies, are leaders in total terms but only 20 per cent of that wealth is accounted for in human skills. This is in stark contrast to Japan with 80 per cent and the United States with 60 per cent.

Honourable senators, herein lies the problem. Canada, with its commodity-based economy and thin population, has a high level of productivity relative to other countries, but when one looks closely at growth areas of the future, the new economy, Canada is at a clear disadvantage. We do not possess the deep reserves of technological skills necessary for the economy of tomorrow and are still too dependent on commodities.

As Governor Thiessen said in a 1998 speech entitled, "The Future Performance of the Canadian Economy":

So how has Canada fared in the productivity department since the 1950s and 1960s? Not all that well I am afraid. After a relatively strong showing from the end of the

Second World War to the early 1970s, our productivity performance became rather lacklustre. Productivity growth is estimated to have slowed from an average of 2 per cent in the 1950s and 1960s to less than 1 per cent in the 1980s and 1990s.

Honourable senators, the answer to Canada's productivity problem can only be addressed by further liberalizing trade, reducing regulation, and reducing taxation which will ensure entrepreneurs stay or come to Canada so as to bring technological innovation.

Clearly even my Liberal colleagues have come to realize the free trade agreement and NAFTA began the important process of industrial transformation. As former prime minister Brian Mulroney said this past weekend when speaking at a free trade conference:

...free trade sparked an explosion of trade, created jobs and attracted investment.

As we in this chamber know, investment is crucial to addressing the issue of our productivity gap relative to that of the U.S., especially as it relates to the new economy because of the need to transfer technological know-how. Canada must therefore continue to follow the trade policies of the late 1980s and early 1990s. Open borders, however, will not in themselves bring about investment in technology and therefore productivity, if we continue to be a heavily regulated and taxed economy.

On the issue of regulation, the 4 per cent first quarter surge in U.S. productivity may be explained in part by deregulation occurring in the telecommunications sector. In Canada, we have not seen the extent of deregulation in that sector as witnessed in the U.S. and, accordingly, our productivity continues to sag.

Senator Meighen said it best in his capital gains speech of yesterday when he spoke of highly skilled Canadian entrepreneurs at the helm of some of the largest technological companies in the U.S. The loss of talent, especially the talent relating to the telecommunications sector, should give all of us in this chamber reason for concern.

Senator Oliver: Hear, hear!

Senator Kelleher: Honourable senators, taxes must fall. The falling Canadian standard of living, despite booming exports to the U.S., should be a wake-up call to all Canadians that our personal, corporate and capital tax rates must fall.

The chairman of the Finance Committee of the other place recognized the relationship between taxes and productivity when he said that the Liberal government must aggressively cut taxes to increase productivity and raise Canadian living standards. He further added that the government should focus on policies that would spur economic growth, including tax reduction, privatization and deregulation. Well said. I suggest he will not be casting his leadership vote for Finance Minister Paul Martin.

In closing, honourable senators, I wish I could report that the government appears to be listening to Canadians but, according to a *Globe and Mail* article of May 10, this does not appear to be the case:

The Liberal government appears increasingly adrift and divided on the key economic issue of the day: The proper balance between tax cuts and spending to boost Canadian's living standards...

Key Liberal strategists believe Canadians are not mounting a tax revolt across the country, but rather suffer from a tax weariness that can be assuaged with steady...reductions year by year.

Honourable senators, the Liberals are correct that Canadians are tax-weary but are wrong that a tax revolt is not underway. One only needs to get out of Ottawa to hear the loud and persistent anger of Canadians regarding our high level of taxation.

It is not the nature of Canadians to lash out at those in power. Rather, we do something that is far more dangerous for the future of Canada. We seek better economic opportunities elsewhere, in the U.S. for now, later in Latin America and perhaps in Asia. This is a revolt of the worst kind, honourable senators.

In closing, the government will likely have a surplus of \$7 billion this year and \$10 billion next year. Honourable senators, the federal government has options to cut personal, corporate and capital taxes across the board. Failure to cut taxes will mean a continuing drain of our much-needed entrepreneurs and an economy that is not becoming more productive or more innovative.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, I wish to bring to your attention the considerable difficulties being experienced in the field of post-secondary education and the inability the Government of Canada found itself in at the time of the last budget to act on the numerous representations made to it by the governments of the provinces.

Hon. Fernand Robichaud (Acting Speaker): Honourable senators, it is hard to hear the speaker. I would like a little more decorum so that Senator Rivest may be heard.

Senator Rivest: I was saying that the government has been unable to meet the expectations and urgent demands being made by all Canadians with respect to the underfunding of post-secondary education in Canada.

As honourable senators know, Bill C-71 calls for substantial increases to transfer payments, primarily for health. Bill C-71 calls for this amount to be raised to \$13.5 billion for fiscal year 2000-201, to \$14.5 the following year, and \$15 billion the year after that.

The federal government plans to increase payments to the provinces under the Canada social transfer by more than \$11.5 billion over the next five years. In 1999-2000 alone, the provinces received over \$3 billion in transfers on condition that these funds be used solely in the health sector as agreed by the first ministers.

In other words, the effort to catch up, after the Government of Canada's cut-backs in the health sector, gives all provinces and all stakeholders a certain flexibility in the health sector.

However, when it comes to post-secondary education, the government has unfortunately decided to do nothing. As senators know, the needs in this sector of activities, with its great importance for the economic development of Canada, remain completely unmet.

Despite the serious crises in Canadian colleges and universities, the government has still not committed to restoring education transfers to the 1993 level. In fact, since that date, the federal government has cut provincial transfer payments for postsecondary education by over \$3 billion. The consequences of these cuts are not visible today and will probably not make the headlines. Because they affect all young people in Canada, the ground we have been losing for close to two years in this sector may well have catastrophic consequences for the country as a whole.

The government's only post-secondary education measure is the very controversial bill to create the Millennium Scholarship Foundation. This organization, officially independent of the government, has been given a \$2.5-billion budget.

Its role is to provide scholarships of \$3,000 each to 100,000 students over a period of ten years.

There was a lot of criticism when the creation of this Foundation was announced. The main criticism in most provinces was that this help for students clashed, but not with the same severity as in Quebec, however, with other problems in the area of education. It was a poor choice of priorities imposed unilaterally by the federal government allegedly because the Right Honourable Jean Chrétien, Prime Minister of Canada, wanted to build a monument to himself by making a gift to the nation. So he chose artificially and arbitrarily. So we have the Millennium Scholarship Fund to commemorate the member for Shawinigan's time in politics.

Honourable senators, he no doubt deserves our tributes, but not from public funds and not through a bill, which may have some interest, but which is very marginal compared with the real priorities in the field of education.

I would do well to point out the main arguments this bill has elicited. Many members of this house and the House of Commons have pointed to the pathetic and random nature of such an initiative. As we have already said, the Government of Quebec has, for a number of years, had a plan for helping students with post-secondary education, which works very well and meets the students' needs.

To this, the federal government arbitrarily grafted an initiative. No way has yet been found to harmonize the two initiatives so different are the approaches of Quebec City and Ottawa.

I would refer you to the initiative by the Liberal member for Verdun, Mr. Henri-François Vautrin, who proposed, in order to resolve the dispute between Quebec City and Ottawa on this issue of the millennium scholarships, that, in the interest of Quebec students, the National Assembly ask the federal government and the Government of Quebec to resume negotiations on the scholarships in order to reach an agreement that would honour the following principle: the share going annually to Quebec students would be determined according to a formula based on demographic criteria. Quebec would select students to receive scholarships and then transfer the list to the Foundation. The foundation would then send, in accordance with the terms agreed on with the Government of Quebec, the scholarships to the recipients.

After this resolution was passed by the National Assembly, there was a sort of confusion, a sort of pathetic dance by the Quebec Minister of Education and the Minister of Human Resources Development in Ottawa. One did not want to speak to the other, the other referred the first to the Millennium Scholarships Foundation, as if the Government of Quebec or any province could negotiate with a third level of government in an area of jurisdiction set aside exclusively for provincial legislatures, in this case, the Quebec National Assembly.

It was a sort of fruitless fantasy of the part of the Government of Canada, the effect of which was to politicize federal-provincial relations and to give the government of the Parti Québécois another opportunity to expound its sovereignist theory to the detriment of the Canadian political option.

This bill was very badly designed and served no purpose. There was no request from Quebec for such a bill. It was unilaterally imposed and, even today, the two ministers have yet to reach an agreement within the time-frame imposed so that Quebec students may benefit from this assistance, since the money is there. They do not seem to be able to manage it.

Again, on the weekend, Mr. Pettigrew, the Minister of Human Resources Development, said they were on verge of reaching an agreement. That was denied by Quebec City. There is a whole criss-cross of politicking between the two levels of government that has led absolutely nowhere, either for the students or for the world of education.

Honourable senators, the dramatic part is that the Government of Canada is, in the coming years, pouring hundreds of millions of dollars into education. The basic problem with the government's initiative is that it is completely outside the Canadian constitutional order. Education is a provincial matter. If federal government has money, it should, as it was the case in the past, transfer it to the provinces so that they may look after their jurisdiction.

I shall speak specifically of the educational community and the educational needs in Quebec. Let us look at the here and now. The Canadian government should hand this money over to the provinces, Quebec in particular, for educational purposes.

The western premiers got together a few weeks ago and demanded that the Government of Canada respect the Canadian Constitution. They also called upon the Government of Canada to step up federal funding to education.

The premiers made a commitment, one to which Quebec could subscribe. Quebec will use these funds as it sees fit for education, which is under its jurisdiction. The premiers are prepared to commit similarly in writing for the health field, to state: "Yes, these funds are freely given, and they will be devoted to education as is done with health."

Honourable senators, we need to familiarize ourselves with the reality of education in Quebec. What is Quebec talking about in the educational field? What are its priorities as far as requirements are concerned? First of all, there is the whole question of teachers and wage parity.

Late last week, the Fédération des commissions scolaires du Québec held its convention and sent a clear message to the Quebec Minister of Education: "We have responsibilities and we exercise those responsibilities. Give us more money, and we will make it possible for the entire educational field in Quebec to move forward."

If there is money available, let the Government of Canada give it to the Government of Quebec, which will in turn pass it on to the school boards. This would have been a far wiser and more self-respecting initiative for the educational field than this sort of artificial initiative of the millennium scholarships, which we in Quebec did not need.

There are urgent needs with respect to teachers, with respect to replacements for those leaving the profession. Pay equity is a major issue that will cost the government hundreds of millions of dollars. There are problems with respect to school funding, as well as underfunding in the area of job training.

Honourable senators, anyone who gives the slightest bit of thought to the educational sector and its needs cannot fail to be critical of the fact that the money the Canadian government has spent on the millennium scholarships belongs not to the Canadian government but to all taxpayers, including the portion paid by Quebec's taxpayers obviously. By investing it in millennium scholarships in a unilateral move that defies reason and is completely risky, the Canadian government made a bad decision.

Honourable senators, this is regrettable. This is not how the Canadian federal system is supposed to work.

On motion of Senator Oliver, debate adjourned.

[English]

• (1700)

CANADIAN ENVIRONMENTAL PROTECTION BILL, 1998

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Butts, seconded by the Honourable Senator Milne, for the second reading of Bill C-32, respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development.

Hon. Mira Spivak: Honourable senators, our country needs strong legislation to prevent the pollution that is damaging the health of Canadians and fouling our environment. We can measure the need — and not just in smog alerts like the one issued recently for Southern Ontario. For the first time, we can measure it in rates of asthma among children, in cancer rates among people who live near toxic waste, and in birth abnormalities and declining sperm counts. As the House of Commons Environment and Sustainable Development Committee reminded us four years ago in its excellent report about the kind of legislation we need, the Canadian Environmental Protection Act is about our health.

In speaking to Bill C-32, I would like first to raise just a few of the facts about our environmental ill-health that have come to light in recent months. Statistics Canada told us that deaths among children due to asthma are increasing and that asthma rates have quadrupled in the last 20 years. At the Eco-Summit on Parliament Hill a few weeks ago, a medical doctor told us he was stunned to learn that, after years of making progress, air quality in Ontario is now growing worse for ground-level ozone and other ingredients of smog. A British Columbia doctor who treats patients for respiratory problems called air pollution a present and immediate danger. He said bluntly:

The only people who refuse to admit it are those who profit from it, or those who are beholden to those who profit from it, or those who haven't looked at the scientific evidence.

Last month, some two dozen families were evacuated from their homes near the Sydney tar ponds. For years, they had lived near 700,000 tonnes of toxic sludge. This spring, an orange goo again seeped into their basements and into neighbourhood yards. Last year, the federal government tested and hauled away soil from the neighbourhood. The tests showed that arsenic contamination was 18 times greater than the regulated level. Locally, cancer rates are 45 per cent higher than the Nova Scotia average.

Last week, the Minister of the Environment announced that governments would spend \$62 million on a preliminary clean-up of this site — the site that three years ago her predecessor described as "Canada's national shame." The preliminary clean-up will cost the federal government \$37.9 million.

We can act to prevent pollution, or we can wait until pollution compromises our health, and then we can spend literally scores of millions of dollars to begin to address the problem, not counting the health care costs, the costs of lost productivity, or the costs of disrupting families that may never be accurately tallied.

Last month, too, the Dene First Nation asked for federal help to clean up 260,000 tonnes of arsenic trioxide stored underground at the contaminated Giant Mine in Yellowknife. Here, too, cancer rates are abnormally high among 1,145 members of two Dene communities.

Meanwhile, a plastics firm in Edmonton emitted a black cloud over its neighbours — the eighth pollution incident at the plant in five months. Neighbours say many people are suffering from bronchitis or allergy problems.

A report from the David Suzuki Foundation found that 1,900 Montrealers are dying prematurely every year from air pollution.

Researchers at the University of Buffalo found that women who eat Lake Ontario fish have up to 30 per cent higher levels of PCBs in their breast milk than women who do not eat the fish. Six years ago, a task force to the International Joint Commission reported similar findings. It also reported the effects on children who were exposed to these toxic substances in the womb. Their birth weights were lower, their heads were smaller and, by age four, they showed signs of retarded growth and poorer short-term memory.

Every one of the situations I have described is intolerable, especially to the people who are paying the price of pollution with poor health and shortened lives. It is no exaggeration to say that thousands of Canadians know personally what pollution does to their families.

A recent poll for Quebec's Manufacturers and Exporters Association showed concern for the environment again at the top of the list, ahead of employment. Canadians do not need to be convinced. They need us to wake up. They need us to listen, and they need us to act.

The government is fond of saying that Canada is the best place in the world to live, and it is, but here is what some are saying about our record on pollution prevention:

A recent study in the *British Journal of Political Science* ranked Canada third from the bottom among 17 industrial countries on pollution control. Only Spain and Ireland have worse records in reducing emissions of common pollutants.

Our own Environment Commissioner pointed out that we have 23,000 chemicals in use in Canada, but have reached firm conclusions on the effects of just 31 of them. We have regulated none of the substances that for years have been on the priority list for control measures. By the year 2000, only 69 will have been assessed for their toxic effects. Of 22 industrial countries, only Canada and the Slovak republic do not collect data on pesticide sales. We are just beginning to give thought to a method of collecting information.

Last month, the head of New York State's energy committee, the state attorney-general, the state branch of the American Lung Association and nine U.S. groups sent letters to the Ontario premier. They complained that Ontario's feeble smog regulations and lax enforcement are contributing to their air pollution and health problems. For two years running, Ontario has placed third, just behind Texas and Louisiana, in the annual ranking of North America's worst polluting states and provinces.

Put bluntly, this is the situation with which we must deal. The question is: Can Bill C-32 do the job? Is it much better, or just marginally better, than the act we now have in place, or is it, in fact, worse? Is the fine rhetoric in the bill's preamble followed up with strong and effective measures that empower the government to prevent pollution? Frankly, I am not convinced that it is, although there are some good new provisions in the bill. The new enforcement provisions; the new, albeit limited, powers for citizens to call for investigations or take polluters to court if the government fails to act are welcome improvements. So, too, are the new time limitations imposed on the government to at least take a cursory look at the 23,000 substances in use in Canada. However, I share the concern of some who have followed this legislation for more than a decade and are concerned that Bill C-32 could make matters worse.

• (1710)

In mid-May, soon after the government introduced its latest amendments at report stage in the Commons, Paul Muldoon, Executive Director of the Canadian Environmental Law Association, was interviewed on CBC's *This Morning*. He said that the existing CEPA gives the Minister of the Environment the authority to do the right thing. He went on to say:

This bill complicates her life, complicates the bureaucrats' life to such a degree that I think it hinders the kind of things that we have to do to protect the environment from dangerous toxic substances.

To decide whether that accurately sums up the situation, the Standing Senate Committee on Energy, the Environment and Natural Resources must take a very thorough look at the bill.

At this point, it is helpful to remember the history of this legislation. The original bill was introduced and passed in 1988. It required a mandatory five-year Parliamentary review. We are already late in making the changes that the review should have prompted.

Looking back, we can agree that the original act was a good first step. Knowing what we know now, we can agree it needs improvement. A dozen years ago, we did not have the scientific knowledge that we have today about persistent toxic substances that build up in the food chain. A dozen years ago, we were only beginning to see the effects of gender-bending chemicals on wildlife. We did not face the great unknowns about the products of biotechnology and their potential to proliferate in the environment, nor did we face questions about their safety in foods.

We certainly did not imagine that 11 years down the road, only 31 of 23,000 chemicals in use in this country would be assessed for toxicity. That has been one of the act's major shortcomings.

This bill promises to complete part of the task within seven years of the bill's passage. That first step is to determine which of those 23,000 chemicals require a full assessment. Officials will be required to determine whether the substances are persistent in the environment, whether they build up through the natural food chain, whether there is a likelihood that people and wildlife will be exposed to them and whether they may be toxic. That is it, that is all that is required of the government within the first seven years. It is a fallacy to suggest that all 23,000 chemicals will be fully assessed for toxicity. The painstaking work of assessment for CEPA toxicity will only be done on the short list of those 23,000 chemicals and likely will not be done expeditiously.

The bill also imposes time lines after the Ministers of Health and the Environment have decided that any particular substance is toxic and the question of listing it goes to cabinet. That is another good feature of the bill introduced by the Commons Environment Committee. It is better than the regulatory limbo that has existed under the current act. However, the process created in Bill C-32 will not be speedy. We should not be mistaken about that fact that the initial look at 23,000 substances does the job. It does nothing but classify those substances. It does nothing to curb them.

In its report four years ago, the House of Commons committee proposed a number of other remedies to the weaknesses in the current act. The government did accept some of the committee's good ideas. It accepted, for example, the suggestion that industries are required to develop pollution prevention plans for some substances, plans which the committee said would allow industry to exercise more initiative and reduce costs. It accepted the idea that citizens have the right to press the government to act, by demanding and getting investigations. It accepted the idea that there are some man-made toxic substances that require special treatment.

These chemicals persist in the environment for many decades and bioaccumulate. They begin as infinitesimal amounts from countless, far-off sources and come together in plants and animal fat to the point that they are dangerous to anyone who eats meat or fish. We are seeing that now in the Arctic as well as Great Lakes fish. Another participant at the eco-summit pointed out that concentrations of toxic substances in the staple foods of people in Arctic communities are approaching dangerous levels.

The government accepted some good principles and then it lost its resolve to do much of anything about them.

Honourable senators will remember that Bill C-74 died on the Order Paper. This bill, when it came before the House of Commons Environment Committee, more than a year ago, was a ghost of a bill in comparison to the committees recommendations in "Its About Our Health."

The weakness of the bill had nothing to do with any restraint on the federal government's constitutional power to act. The Supreme Court made a strong ruling in that regard after Hydro Quebec and several provinces attempted to gut the existing CEPA. Many who listened to the government lawyers arguments frankly wondered whether the government wanted to win. Still, the courts ruling two years ago was, and is, very significant. In its majority decision, the court said:

...pollution is an evil that Parliament can legitimately seek to suppress. Indeed...it is a public purpose of superordinate importance, it constitutes one of the major challenges of our time. It would be surprising indeed if Parliament could not exercise its plenary power over criminal law to protect this interest and to suppress the evils associated with it by appropriate penal prohibitions.

The federal government shares with the provinces a duty to prevent pollution. However, when push comes to shove, as it did two years ago, the federal government has the authority to act.

As soon as the government received that clear message they brought in the harmonization accord, which is entrenched in Bill C-32. I want to return to the accord in a few moments. Suffice it to say, it is another example of the current government's lack of political will to protect the environment through national standards, through enforcement or through legislation.

The present bill was referred to the House of Commons committee some 14 months ago, on April 28, 1998. The committee held almost 60 days of hearings, 37 of which were in clause-by-clause debate over more than 400 amendments. Some very dedicated committee members on the government side and from opposition benches spent 93 hours alone on that job, making compromises, trying to return balance to a bill that would satisfy most people.

During the course of that debate, the Department of the Environment went so far as to construct a spreadsheet ranking industry's opposition to changes proposed by other witnesses or by committee members with the help of parliamentary staff. As far as we know, there was no departmental spreadsheet ranking environmental groups' concerns about industry proposals. It was quite clear that the government wanted a business-as-usual approach. To improve the bill, some government back-benchers and the chairman had to vote with opposition members.

It is quite unusual for a former federal environment minister, a former provincial environment minister and a former

parliamentary secretary of the environment to the minister, all government members, to feel compelled to vote against a bill.

No sooner was the bill out of committee than the Friday group, a consortium of industry representatives, led by the Canadian Chemical Producers' Association began one of the most irresponsible, fear-mongering campaigns seen in years. Among other things, members of that group suggested that unless Bill C-32 was changed at report stage, it would shut down wood-burning stoves or municipal waste incinerators in Newfoundland's fishing villages.

Let me tell you one of the things a strong CEPA could and should do. It could and should identify dioxins, along with PCBs, as persistent pollutants that we need to eliminate. Under the existing CEPA, we have greatly reduced emissions of dioxins and furans in pulp mill effluent and put a stop to new uses of PCBs. The Chemical Producers' Association is quite correct that wood-burning stoves and municipal waste incinerators are sources of dioxins. If we never set the goal of eliminating them, and move step by step towards it, what will be the result?

• (1720)

I can tell honourable senators exactly what that business-as-usual approach would mean in the Hamilton area. Last month, the Hamilton-Wentworth regional council voted to save slightly more than one-tenth of one per cent of its municipal waste budget by increasing the amount of garbage burned in its incinerator. The expected result is a 50 per cent increase in dioxin emissions from the aging plant, making it the country's largest municipal source of dioxins.

A study reported in the U.S. *Journal of the National Cancer Institute* in the same month found that workers exposed to dioxins have a 60 per cent greater risk of dying of cancer than the general population. These bioaccumulative chemicals have also been linked to genetic abnormalities and reproductive disorders.

Despite what the Friday groups says, no minister in his or her right mind would target wood-burning stoves before addressing the major sources. As for garbage burning in Newfoundland outports, in what are essentially screened open pits, much of the problem can be corrected simply by sorting out the plastics before the garbage is burned.

When the former government got tough on dioxins and furans in pulp mill effluent, it heard the same industry's cries about exorbitant costs and the need to preserve international competitiveness. The government gave the industry enough time to adapt. The goals were exceeded and new technology was developed. Some of the newest mills now put no effluent into rivers and streams. As a result, they have attracted customers from Europe precisely because they are not polluting. Those who read the *Harvard Business Review* and Michael Porter, the great guru of comparative advantage upon whom business often calls, will know that he advocates that being green is being competitive, which is a good measure to cut the bottom line.

The current government, it seems, has no memory. Instead, it is listening to fear-mongering. Its amendments at report stage weakened the bill. Let me cite one example. Another item high on the Friday group's wish list of changes were amendments that altered who would decide that pollution prevention plans be ordered when pollution damaged international waters or crossed borders and contributed to air pollution. The Friday group issued the hyperbole that unless changes were made, "...all Canadian businesses that emit something that contributes to some pollution in the U.S. will have to go through the paper burden of preparing pollution prevention plans." It wanted cabinet to have the say on whether the Minister of the Environment could require pollution prevention plans for international air and water pollution.

The Friday group's choice of words is revealing. They say that pollution prevention plans are only paper-burden. The industry missive did not talk about acting on them.

It is important to remember that we are not talking about banning substances, or the full weight of regulatory action. We are talking about that intermediate step between doing nothing and the heavy hand of regulation. We are talking about requiring companies to draw up plans to prevent pollution. The situation would apply to substances covered by international agreements that cabinet had already approved. Yet, the Friday group wanted a further check on the powers of the Minister of the Environment by giving cabinet colleagues the final say on whether any order for a plan should be issued. Thus, the government introduced the amendment which is now part of the bill.

If a camel is a horse designed by a committee, then Bill C-32 is a camel with its humps removed and little capacity to store water. I do not think that is what we want to ride into the next century.

I have gone into some detail on what happened with this bill before it reached us because I believe it is germane to how we deal with it. I now want to address some of the important things this bill would do, and some of the things it would not do.

First, it would mean that CEPA is no longer the chief federal law on new toxic substances or products of biotechnology entering Canada. Its role would be that of a residual statute. It would apply only if another statute did not have "equivalent" regulation. It would not be up to the Minister of the Environment or the Minister of Health to decide whether another regulation did the job properly. It would be up to cabinet.

The Environment Commissioner's recent report is very telling in this regard. He found that budget cuts and departmental in-fighting have paralysed the government's capacity to manage pesticides and other toxins. Pesticides are not regulated by CEPA, which is a problem. The Environment Commissioner cited instances in which departments could not agree on whether substances were toxic, or even how to interpret statutes. In one case, departments contradicted one another at an international conference. Surely we do not want to compound the potential for disagreement and delay by giving more powers to other ministers and other statutes. Surely, when it is a matter of protecting health and preventing pollution, the decision to regulate should rest with the Ministers of Health and the Environment. It should not

be up to the so-called industry departments of natural resources, agriculture, or industry, trade and foreign affairs.

Second, as I mentioned earlier, Bill C-32 enshrines the Harmonization Accord without specifically mentioning it. CEPA regulations would not apply wherever provinces or territories have "equivalent" regulations. Harmonization is a disaster on two scores. We know already that some provinces, notably Ontario, are not enforcing their existing regulations. Last year in that province — which is the province in Canada with the worst air — air pollution violations almost doubled to more than 3,000. Only two charges were laid. The companies not in compliance with regulations included Ontario Hydro and the National Research Council of Canada.

Part of the reason for this lax enforcement is very simple. Since 1995, the Ontario environment ministry staff has been reduced by almost 40 per cent. Just as important is a very recent Federal Court ruling on the accord. The court was asked to rule on whether the government had unlawfully ceded power to the provinces in January 1998. Federal Court Judge Barbara Reed found that the accord was so devoid of factual content that it was impossible to decide what it meant. She found that some of the provisions of the accord were inconsistent with each other. She found that the pollution standards agreement, in particular, suffers from its inchoate nature. Judge Reed said that Canadians should know what the accord means in practice, but that is not possible. She also said that the answers must await more factual content, something which I find most troubling.

How can we, in all conscience, enshrine in law an agreement so devoid of content that a court cannot determine what it means? What sort of shell game are we being asked to make part of the statutes of Canada?

Third, there is the matter of virtual elimination. The concept is not new, although the words may have that high-tech ring. Essentially, it means doing all we can to rid our environment of the worst chemical nasties — those that persist, build up in the food chain, and are toxic. Some, although not all of them, also disrupt the endocrine systems of people and species in the wild. Among them, dioxins, DDT, PCBs, lead and mercury are known to be gender benders.

Nine years ago, the International Joint Commission reminded both Canada and the U.S. that they had agreed to virtually eliminate all persistent toxic substances. We agreed under the Great Lakes Water Quality Agreement. In its eighth biennial report released three years ago, the IJC had this to say about virtual elimination:

There are various interpretations of virtual elimination and zero discharge. Virtual elimination is not a technical measure but a broad policy goal. The goal will not be reached until all releases of persistent toxic chemicals due to human activity are stopped. Zero discharge does not mean simply less than detectable. It does not mean the use of controls based on best available technology, or best management practices that continue to allow some release

of persistent toxic substances, even though these may be important steps in reaching the goal. Zero discharge means no discharge or nil input of persistent toxic substances resulting from human activity. It is a reasonable and achievable expectation for a virtual elimination strategy. The question is no longer whether there should be virtual elimination and zero discharge, but when and how these goals can be achieved.

• (1730)

According to Bill C-32, apparently, it will not be soon and probably it will not be ever. The version we have before us would make the steps towards virtual elimination synonymous with the end-point. It is a significant aspect of the bill on which the industry went ballistic. Industry has known for almost a decade that we are party to an international agreement that requires that we enact laws that stop putting these persistent poisons into the environment. When push came to shove, government retreated.

Then there is the matter of endocrine disrupters — those gender-bending chemicals that mimic estrogens and have demonstrably reduced the size of male genitalia, lowered sperm counts, and caused gross birth abnormalities among wildlife in the Great Lakes region and elsewhere. Scientists have been documenting the effects for years. Scientists also tell us that sperm counts in the human species are declining.

Several years ago, a scientist testifying on the subject before the U.S. Senate committee said rather dramatically: "Senator, you are likely half the man your father was." We can laugh, but we cannot escape the fact that more couples are turning to fertility clinics. The waiting lists are growing.

Six years ago, a task force to the IJC documented the studies that showed mammals experienced decreased fertility, feminization, and their immune system response was compromised by these endocrine disrupters. It is sheer arrogance to believe that people are not affected, too. More positively, a British research group has recently published its findings that it has a cheap and easy way to remove estrogen-mimicking substances from water.

What has been the government's and industry's response to any proposal to include gender-bending chemicals in CEPA? It wants to limit the government's role to information gathering, and it is bickering about the definition of these compounds.

Finally, there is the question of how Bill C-32 deals with the rights of aboriginal peoples. The bill is sprinkled with references to participation by aboriginal governments — and in some instances to aboriginal people in several clauses — in establishing a new national advisory committee or in administration agreements. The act clearly defines aboriginal governments and aboriginal land, but it does not define aboriginal people, perhaps quite deliberately.

I have a letter from a lawyer who is highly respected in this area, and I should like to share a portion of it with you. In the opinion of this lawyer, while Bill C-32 may not be

unconstitutional, it continues the mistaken view of government policy that there are only two major groups of aboriginal people in Canada — Indians and Inuit. It is silent on the Métis. She notes that in 1982 the rules of the game were supposed to change. The Constitution was amended to state that Canada's aboriginal peoples include the Métis. We heard something about this in the Forestry Committee. After 1990 and the *Sparrow* decision of the Supreme Court, governments began to recognize Indian rights as legal obligations, not just moral and political obligations, but for the Métis, nothing has changed at all. Nothing has changed despite the *Delgamuukw* decision affirming the government's fiduciary obligation to consult and in some cases obtain the consent of the aboriginal people concerned before their interests are affected by governmental action.

The new measure in Bill C-32 perhaps could be challenged under section 15 of the Charter, if it were not for the fact that Bill C-32 has a very narrow definition of aboriginal government and aboriginal land, and in that way applies to a portion of the aboriginal peoples of Canada. To quote the lawyer who wrote to me:

The government appears to be quite even-handed in its non-inclusion of any meaningful role of most of the Aboriginal peoples of Canada in this bill.

I think this is a matter the Senate can and should address.

Honourable senators, I am well aware of the information the government is issuing that claims this bill will strengthen the current act. Some of what it tells you is correct, but the bill falls so short of what is needed that a former federal environment minister, a former Quebec environment minister and a former parliamentary secretary could not endorse it. They voted against the eleventh-hour government amendments to weaken the bill.

In the end, the same very knowledgeable members of the other place could not in all conscience agree that a few weeks of powerful industry lobbying should undo many months of committee deliberation.

Here is what news reports quoted the former environment minister as saying. My guess is that this is Charles Caccia, but I do not know.

This is still a far cry from the Red Book promise. This bill could have been a reasonably good one if improvements made in committee had not been dismantled, if business interests had not been put ahead of public health, and if the official opposition had performed an effective role, which it didn't.

Honourable senators, if ever there was a bill that required sober second review by the Senate, this is it. For centuries, the warning signs that toxic substances were damaging health and shortening lives have come from workers who were daily exposed to them. Today, the asthma rates and the effects of persistent pollutants on four-year-old children tell us something different is happening. It is not just the industrial workers who are "the canaries in the mine shaft." Increasingly, it is our children who are giving us the warning that we are poisoning the

air, soil, water and sources of food. Before we approve this legislation, we must be very certain that Bill C-32 is the best that we can do for them. Whatever the merits of this bill, it is absolutely necessary that the Senate committee take the time to examine it and see how we can approve it.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Butts, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Maloney, for the second reading of Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

Hon. Marjory LeBreton: Honourable senators, I am very pleased to be speaking to you today about Bill C-79, to amend the Criminal Code for the benefit of victims of crime. The measures proposed by this legislation are very positive. The issue of victims' rights is most deserving of growing public interest, and it is about time. We are fortunate to be living in a society that takes a progressive view of matters that affect our criminal justice system, and the importance of this bill calls for us to take a non-partisan approach in our examination of it.

As many of you may know, the subject of victims' rights and related issues is one in which I have long held an interest. After I was summoned to the Senate in 1993, I decided to further inform myself of the impact, short-term and long-term, on victims of criminal acts.

In August 1994, I attended a CAVEAT conference in Hamilton, Ontario, organized by Priscilla de Villiers. I sat through the sessions, listening to people who had been faced with the horrific reality of a violent criminal act. I was overcome with sadness when person after person told their stories — the lack of support, the frustration with the courts, and the feeling that the perpetrator enjoyed more rights than the direct victim or victims and the other victims left behind to deal with the consequences of these tragedies. As I sat there, I could not imagine how they managed to cope. Little did I know that I and members of my own family would be in the same situation a short year and a half later.

• (1740)

I would ask honourable senators to think about victims' rights, and if they have not been through this sort of situation themselves, to try to imagine what they would do. Think of the obstacles that the victims must overcome as they seek justice in the courts. We must recognize that, as parliamentarians, there is much more we can do to respond to their needs. The enactment of this bill comes just in time, and indeed is very important to the victims of crime who wish to have a say about how we can protect them and guarantee their safety.

In June of 1998, after several years of waiting and a number of false starts, the House of Commons Standing Committee on Justice and Human Rights responded to the request made by the Minister of Justice and initiated consultations, the ultimate aim of which was to respond to victims' needs. On October 26, 1998, after five months of consultations, the committee's report, entitled "Victims' Rights — A Voice, not a Veto," was tabled in Parliament. It contained 17 recommendations which addressed a variety of topics, including funding for victim assistance programs, the creation of a federal Office for Victims of Crime, which I will return to later, and amendments to the Criminal Code, the Young Offenders Act, and the Corrections Conditional Release Act, to ensure that the courts respond to the needs of victims. The report received the support of all political parties in the House of Commons.

In December, the federal Minister of Justice tabled her response to the committee's report. In it, she outlined the strategies that the federal government intended to follow in the months to come. She accepted the recommendation for the creation of a Strategic Centre for Victims of Crime to oversee and ensure in future that all political and legislative initiatives of the federal government take into account the views of victims of crimes. It will be responsible for coordinating and enhancing federal initiatives relating to victims and will become a centre of expertise as new issues and trends emerge relating to rights, laws and services that affect victims across Canada.

However, the minister did not respond to recommendation number 2 in the report, which calls for the creation of a federal Office for Victims of Crime within the Department of Justice with the mandate to provide information, advice and services directly to victims. The proposed model for this Office for Victims of Crime was based on the Office of the Federal Corrections Investigator, whose responsibility it is to respond to requests and needs of inmates serving their sentences in federal penitentiaries.

The reason given for not addressing the recommended Office for Victims of Crime was that to do so might infringe on provincial jurisdiction. It is true that a number of provinces have appointed a director of victims' services, and in other provinces, such as British Columbia and my own province of Ontario, a separate division has been created within the Ministry of the Attorney General with the necessary resources and staff. My own provincial MPP, John Baird, played an integral role in this important initiative in Ontario, and I applaud him and the Ontario government for showing leadership on this issue.

Other provinces also have separate victim services sections. Quebec, in particular, was opposed to the creation of this office, claiming a duplication of resources in terms of services to victims which would infringe on jurisdictional authority. The Bloc Québécois here in Parliament also questioned the creation of the Strategic Centre for Victims of Crime, saying that since Quebec had established its own victims of crime assistance office, this would infringe on its jurisdiction.

Honourable senators, the principles and provisions of federal statutes obviously must not interfere with the division of powers, but the creation of a centre of this nature can be done without infringing on provincial jurisdiction, and in so doing we will provide all the provinces and territories with ongoing, up-to-date information, allowing them to stay current with what is taking place across the country.

From a moral standpoint, the situation faced by victims surely goes beyond questions of the divisions of powers and partisan politics. Cooperation between the federal government and the provinces, within their respective jurisdictions, must be achieved for the benefit of victims of crime. The federal government has the responsibility to ensure that action is taken, and that the provinces have the financial resources to implement the new provisions of Bill C-79 and the statement of principles.

Let us not forget for one moment that this bill is intended to respond to victims' expectations and needs, victims having too often been shunted aside at trial for procedural reasons. The members of the Legal and Constitutional Affairs Committee must seek assurances from the minister that the provinces will have the support and resources needed to implement Bill C-79.

Honourable senators, Bill C-79 does respond to seven of the 17 recommendations in the committee report, primarily those aimed at amending the Criminal Code so that it will better meet the needs of victims in criminal proceedings in the courts, something that can be psychologically very difficult for many victims and, by extension, their families and close friends. Even the principles in the bill respecting the youth criminal justice system, which we shall soon be examining, recognize the important role that victims have to play in the youth justice system, and victims' needs for information regarding judicial process.

Honourable senators, the bill contains the following provisions: The preamble to the bill states the federal government's commitment to responding to the concerns and needs of the victims, and it recognizes that the cooperation of victims is essential to the investigation and prosecution of offences. In addition, it supports the principle that victims of crime should be treated with courtesy, compassion and respect by the justice system. It recognizes that, while the Crown is responsible for the prosecution of offences, the views and concerns of victims should be considered in accordance with the prevailing criminal law, particularly with respect to decisions that may have an impact on their safety, security or privacy. It also states that it wishes to encourage and facilitate the provision of

information to victims regarding the criminal justice system and their role in it.

Bill C-79 includes a provision for definition of the word "victim," which includes the victim of an alleged criminal offence, to be added to the Criminal Code. There are those who would have preferred that expression to be defined in accordance with the definition of "victim" in section 722 of the Criminal Code, which applies solely to the right of a victim to make a statement at a hearing on the sentencing of an accused. It defines a victim as a person who has suffered physical or emotional loss as a result of the commission of an offence. The members of the Standing Senate Committee on Legal and Constitutional Affairs will also have to consider the fact that there are two definitions of "victim."

Bill C-79 also offers protection for young people aged 18 years and under who have been victims of sexual assault or violent crimes by imposing restrictions on cross-examinations conducted by accused persons representing themselves. An accused will no longer be able to cross-examine at the preliminary inquiry or trial if the victim or witness is under the age of 18. The judge will now need to appoint a lawyer who will conduct the cross-examination.

The bill also provides that the court will have to protect the identity of victims of sexual assault or any other crime that the accused has committed against them. In addition to sexual offences, this prohibition will also extend to offences committed by persons in positions of authority over children. It will also cover cases where two or more offences have been committed and are being dealt with in the same proceeding.

The report of the Standing Committee on Justice and Human Rights of the other House pointed out that there were flaws in the Criminal Code as regards the provisions that allow police officers or other judicial officers to release a suspect or an accused while awaiting the accused's first appearance before the court, or while awaiting trial. The amendments proposed in Bill C-79 will mean that a judicial officer, a peace officer, a judge or a justice of the peace must have regard to the safety of the victims or of the witnesses to the offence in making any decision regarding releasing a suspect on bail. The bill also provides that, when an accused is released while awaiting trial, the judge must take into consideration any evidence relating to the need to protect the victim's safety and security. On this point, it provides that the judge must consider making it a condition of release that the accused be ordered not to communicate, directly or indirectly, with the victim or witnesses, and imposing any other condition necessary to ensure their safety and security.

The proposed changes will mean that greater consideration will be given to the special concerns of the victim or witnesses, and those concerns will be given greater prominence in decisions regarding what special conditions will be placed on release on bail, particularly with respect to offences regarding possession of firearms and criminal harassment.

As honourable senators know, the victim impact statement is a written statement prepared by the victim which is considered by the court at the time the offender is sentenced. It allows victims to participate in the proceedings by describing the impact of the crime on their lives and the lives of their family members. The effect of this important amendment is that victims will be allowed to read their statements at the time of sentencing if they so desire. This is a major event because, at present, the judge is required to take the written statement into consideration but it is at the judge's discretion as to whether to permit the victim to read it. This created a situation of disparity and inequality from jurisdiction to jurisdiction, much to the extreme distress of many of those who were denied the opportunity to have their say in court.

• (1750)

With these changes, the judge will be required to ask the victim, before passing sentence, whether the victim has been advised of the opportunity to make a statement. The court may also grant adjournments to permit victims to prepare statements or to present further evidence regarding the impact of the crime committed. The court will also be able to specify that information provided by victims is allowed to be presented orally or in writing at the hearings to determine parole eligibility dates for accused persons sentenced to life imprisonment with no eligibility for parole for 15 years. At present the Criminal Code stipulates that any information provided by the victim must be taken into consideration but, in fact, it must be pointed out that in practice many victims have been discouraged from presenting oral statements.

Honourable senators, I believe it is appropriate to proudly say, in a non-partisan way, that a number of the measures contained in Bill C-79 were enacted by the previous government. I would cite but a few examples: First, in 1988, Bill C-89 was enacted by Parliament for the purpose of ensuring that the needs of victims of crime were taken into consideration during the trial and in sentencing. One of the things it did was to provide for a "victim fine" surcharge to be imposed on a convicted offender. That measure was instituted to enable the provinces to use the money to provide programs, services and assistance to the victims of crime in provinces and territories. It also authorized the use of victim impact statements which were to be taken into consideration at the time of sentencing.

Second, the government made a fund available to the provinces to assist in developing programs and services for victims. That fund could also be used to train employees of the courts about victims' rights, or to establish information programs for members of volunteer organizations working with victims. I, myself, personally benefited from such an agency working in the courts here in Ottawa.

As well, I was proud to have played a role in the development of our election platform in the 1997 general election when we proposed a bill be drafted to create a victims' charter of rights which guarantees victims the right to better information and greater participation in court proceedings.

As I said at the beginning, I wish to refer back to the creation of an office for victims of crime. As many of you know, honourable senators, I am on the National Board of MADD Canada, Mothers Against Drunk Driving. MADD would ask that the following be considered when developing the roles and responsibilities of the new Victims' Policy Centre. I would ask that these be taken into account when this bill is before committee, and that the committee seek the following assurances of the minister:

First, in establishing the office, victims need more than a reference-and-resource centre. The office must be a victim's point of entry into the federal government, which provides an individual with teeth to cut through the bureaucratic mazes and processes.

Second, the office should act as a vigilant watchdog of government activities to advocate victims' rights throughout government processes. It should be established as a source of information for government departments and agencies on the rights of victims of crime.

Finally, the office must act as a liaison between government and victims' advocacy stakeholders. The office should facilitate an annual round table on the rights of victims of crime at which formal dialogues with national stakeholders and advocates could be established and maintained.

Honourable senators, as I said earlier, the tragic events that victims are forced to endure leave them with deep, psychological scars that will stay with them forever, after any physical injuries have healed.

As well we must not lose sight of the fact that these sad events not only affect the lives of the victims. They also impact on victims' families and friends, the people who often support them throughout the court proceedings; proceedings which, most of the time, are very hard on them. For the victim, these people are often the only people they can truly trust.

Unfortunately, in recent years, victims of crime and the associations that advocate for them have lost confidence in the ability of our judicial system to genuinely pay attention to their experiences. The result has been that a growing number of victims do not file charges against the people who have assaulted them. Victims of crimes may be reluctant to pour out their hearts, fearing that the courts will probably not listen to what they have to say.

Too often, especially to victims, our justice system seems to be concerned solely with the rights of the accused person. The preamble to Bill C-79 seems to be intended to restore a balance between the rights of the accused and the rights of the victims. Let us hope that the courts will pay attention to that new balance.

The last thing I want to say is that a tragic event of being a victim of crime can also affect an entire community, a community that may fear for its safety. Accordingly, honourable senators, the concept of who is a victim is much broader than we might think at first glance.

In closing, I believe this bill is definitely a step in the right direction towards helping victims of crime to obtain justice and to move on from the unfortunate experiences that they have had forced upon them.

In my own case, I and my family did have the opportunity to read our victim impact statements. I cannot imagine what it would be like to be denied that right or, worse, to be subject to cross-examination. That has happened across this country in different jurisdictions.

I believe this bill will allow other victims to be accorded the same rights. I can attest that having your say in court goes a long way in helping victims of crime work their way through unspeakable tragedies.

The Hon. the Speaker: If no other senator wishes to speak, I will put the motion.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before I begin my remarks on the next item of business, I think it is agreed on both sides that we will not see the clock at six o'clock?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): That is agreed.

The Hon. the Speaker: Is it agreed, honourable senators, that we shall not see the clock at six o'clock?

Hon. Senators: Agreed.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(Honourable Senator Carstairs)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators:

Whereas the Special Senate Committee on Euthanasia and Assisted Suicide, appointed on February 23, 1994, addressed in its proceedings the medical practices of the withholding and withdrawal of life-sustaining treatment and the provision of treatment to alleviate suffering that might result in the shortening of life;

And Whereas, in its report entitled "Of Life and Death," dated June 6, 1995, the committee recognized the existence of uncertainty within the medical profession and public of Canada regarding the legal consequences of these medical practices;

And Whereas the committee unanimously recommended that the *Criminal Code* be amended to allow health care providers to carry out these medical practices in certain cases without the fear of incurring criminal liability;

Now, Therefore, Her Majesty, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows...

This, honourable senators, was the preamble to the former Bill S-13, to amend the *Criminal Code* (protection of health care providers).

I introduced that bill during the last Parliament. The bill was intended to clarify the *Criminal Code* with respect to withholding and withdrawing of life-sustaining medical treatment and the provision of treatment to alleviate pain. Regrettably, in my view, it died on the Order Paper. Fortunately, with her Bill S-29, Senator Lavoie-Roux has revived that debate in this chamber. I am pleased to take part in that debate.

However, honourable senators, one of the changes I would like to see made to this bill in committee would be the reintroduction of the preamble. I know it is not generally considered good legal practice, if you will, to have preambles to bills. We have just seen, and Senator LeBreton referred to it, that there is a preamble to Bill C-79, the victims' bill, and the reasons were outlined as to why that preamble was included.

• (1800)

I would like to see the preamble back in this bill for two reasons: The Special Senate Committee study on Euthanasia and Assisted Suicide is, I believe, one of the best pieces of work that we have done in this chamber, and I would like this chamber to be accorded recognition for it. Putting the preamble back in the bill is one means by which we could gain that recognition.

I also want the preamble there because, although the preamble is not an integral part of the bill, it would alert those looking at the bill to review the Senate study, and that might help them form their judgment on this legislation. I hope that when the committee is studying this bill, they will make that change.

As Senator Lavoie-Roux stated in her remarks, this legislation is long overdue. This committee report has been around for four years. To this time, the government has chosen not to respond. We should all congratulate Senator Lavoie-Roux for bringing it once again to our attention.

However, I do have some concerns about the legislation, and I wish to address them tonight. The definition of "health care provider" in clause 2 of the bill is designed to set the parameters of who will be covered by this Criminal Code defence. A health care provider is defined as:

- (a) a medical practitioner duly qualified under the laws of a province...
- (b) or nurse or other health care professional who, acting under the supervision and on the instructions of a medical practitioner...or
- (c) a person who provides treatment or care to a person under the supervision of —

— a medical practitioner, nurse or health care professional. In effect, a person caring for their spouse at home would be, in my view, covered by the bill provided they acted on the instructions of a nurse or other health care professional, who themselves are acting on the instructions of a medical practitioner.

In this way, it seems to me that the bill provides for a two-tier system of responsibility. I am concerned that this would lead to a very confused situation. How is the caregiver supposed to know whether the nurse instructing him or her was acting on the instructions of a doctor? Furthermore, the bill does not define "health care professional." Presumably, an orderly is a health care professional. This bill would protect a person acting on the advice of an orderly who was acting on the advice of a doctor. I am not sure that is exactly what Senator Lavoie-Roux intended by this provision and it is one I should like the committee to look at in detail. In my view, it would be preferable to provide the defence to any person who was acting on the advice of a medical practitioner. Perhaps the committee would consider an amendment to the bill to clarify this definition.

Clause 2 goes on to define "life-sustaining treatment" as:

...any medical or surgical practice or procedure intended to sustain, restore or supplant a vital function in order to postpone death.

The definition of "life-sustaining treatment" in this bill does not specifically include artificial hydration and nutrition. Members of the special committee will remember that this was an issue of considerable debate during our deliberations. In the end, the committee recommended that it should be considered treatment, and that the withholding and withdrawal of it is as acceptable as the withholding and withdrawal of artificial respiration, blood transfusions, or CPR.

However, some witnesses, such as Canadian Nurses for Life, held the view that there is a difference between these two types of actions. They said that withholding or withdrawing life

support is ethically acceptable but, in their view, this did not include artificial hydration and nutrition.

For greater certainty, I would support an amendment to Bill S-29 to include artificial hydration and nutrition explicitly in the definition of life-sustaining treatment. This would be in line with the special committee's recommendation in "Of Life and Death," the report of the committee.

Honourable senators, the Criminal Code does not prohibit palliative care, even if it hastens the death of the patient, so long as that care is carried out in accordance with generally accepted medical practice. However, many health care providers are hesitant to provide adequate palliation and pain control because they fear criminal liability where the treatment shortens the life of the patient. This is the basis for the committee's recommendation that the Criminal Code be clarified in this respect.

Senator Lavoie-Roux has attempted to clarify it by adding a new section 45.3 to the Criminal Code. In my view, this new section, as drafted, will actually make it more difficult for patients to get adequate palliation and pain control. Section 45.3 would provide a defence from prosecution for a health care provider who administered medication to alleviate the pain or other symptoms of serious physical distress of a person if the person has given free and informed consent, if the primary intent is to alleviate pain, and if the health care provider acts in accordance with the relevant standards and guidelines established under the new section 45.5.

I was surprised to note that Bill S-29 makes no reference to pain control which may shorten life, which is the real issue before us requiring clarification. I urge the committee to study whether, by excluding a direct reference, the law is unnecessarily ambiguous.

Honourable senators, we must achieve a balance when we put in place safeguards for patients: too few, and we have not done our job to ensure that patients are receiving adequate palliative care; too many, and we are also jeopardizing adequate palliative care. If we make the process too cumbersome, or too ambiguous, we will have achieved nothing. Medical practitioners would still be reluctant to give adequate pain control which may shorten life for fear of prosecution. Surely avoiding this is the purpose of the legislation.

Bill S-29 requires consent in the presence of a witness before pain control can be administered. Of course I support the right of a person to be consulted about his or her medical care. However, I am concerned about the instances where patients cannot communicate their wishes.

Dr. James Gordon, a neurologist who appeared before the special committee, outlined cases such as "locked-in syndrome" where a patient is able to comprehend but unable to communicate except by eye movement or, in some cases, not at all, and cases where a patient does not speak any language known in the country and has lost the power of speech. I hope the committee will invite medical practitioners to address the question of whether this section will be too onerous.

Bill S-29 uses the term "free and informed consent." However, it does not include a definition. The courts have not defined the term "free and informed consent," although they have defined the term "competent." My concern, again, is that this section must use the appropriate language in order to make the bill effective.

The proposed section 45.4 of the Criminal Code sets out the alternative process for getting consent if the patient is unable to give it. The difficulty here is that the bill does not mention the family of the patient. Instead, it refers to tribunals and the courts. Furthermore, it points to the laws of the province, which differ widely, if they exist at all.

Finally, honourable senators, the bill provides for guidelines to be established which must be followed for the withholding and withdrawing of life sustaining treatment and for the alleviation of pain in order for the Criminal Code defence to apply. Guidelines are a good thing. In fact, the special committee recommended them.

Let me draw your attention for a moment to the areas in which the Minister of Health must make regulations according to the proposed section 45.5 in Bill S-29. The minister is to make regulations for identifying the circumstances in which medical and surgical practices and procedures constitute life-sustaining medical treatment, and for determining which medical and surgical practices and procedures involve the withholding or withdrawal of life-sustaining medical treatment. At present, these determinations are made by medical health practitioners.

How can the minister of health, in consultation with the provinces, make these regulations? Is he or she competent to do so?

The minister is to make regulations for determining reasonable dose limits for medication and for determining the circumstances in which it is ethical to exceed dose limits.

Honourable senators, how is it possible for the Minister of Health to set dose limits? Doctors themselves cannot set these limits. In fact, the amount of pain control medication a person can take is affected by a host of factors and is apparently unique to the individual, according to the evidence that the special committee heard. However, more important, the bill provides that the Minister of Health may adopt different regulations in each province. This raises an important constitutional argument. A Criminal Code defence should not be illusory.

I remind honourable senators of the *Morgentaler* decision. One of the reasons the abortion law was struck down was that the Criminal Code defence was not evenly applied across the country. In this case, the procedure differed from hospital committee to hospital committee. By allowing for different regulations in each province, we allow for a different federal criminal law in each province.

Honourable senators, let me be perfectly clear: The principle set forth in this bill is one that I strongly support. However, as the expression goes, the devil is in the details.

Senator Lavoie-Roux has indicated she is open to change. That is why I have been so forthcoming with the changes that I think need to be made to this piece of legislation.

Honourable senators, this bill seeks to amend the Criminal Code. In her closing remarks last week, Senator DeWare indicated that she would want this bill to go to the Standing Senate Committee on Social Affairs, Science and Technology. Honourable senators, I must say in the strongest terms that because this bill is an amendment to the Criminal Code of Canada, I am not able to support a recommendation that this bill go to the Social Affairs Committee. This bill must go to the Senate Standing Senate Committee on Legal and Constitutional Affairs after second reading. I hope it will go there very soon, and I hope that the committee will give it a thorough and complete study.

On motion of Senator Cools, debate adjourned.

INTERNATIONAL SEARCH OR SEIZURE BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Beaudoin, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-24, to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada.—(Honourable Senator Carstairs)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, Senator Beaudoin's bill, to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada is a most interesting piece of potential legislation.

Senator Grafstein indicated that he had some serious concerns about Bill S-24. He indicated that he believed that the bill did not meet the actual objectives set forth by Senator Beaudoin. However, it is the view on this side that this bill should go to committee and that it should receive the kind of study that Senator Grafstein raised in his speech, as well as to hear clearly from the sponsor of the bill, Senator Beaudoin, as to why he believes Senator Grafstein's arguments are not valid and that this bill does meet the objective as he has set it forth.

Honourable senators, there will be no further speakers from this side. If Senator Beaudoin wishes to conclude the debate, we would be pleased to have him do that today and then refer this bill to committee.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I had occasion, in my speech on the substance of Bill S-24, to give the reasons why it would be advisable to pass this bill.

The bill is based on the dissenting opinion of two judges of the Supreme Court of Canada in the *Schreiber* affair. If a request to carry out a search or seizure is made within Canada, by a Canadian authority, a mandate is required. I believe that the same principle should apply in similar circumstances if the search or seizure is made outside Canada.

In other words, the purpose of this bill is to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada, by the Attorney General of Canada or by a province.

[English]

As stated in Bill S-24, clause 3, before making a request to a foreign or international authority or organization for a search or seizure outside Canada for the purpose of the investigation of an offence, a competent authority shall apply to a judge or justice for an order authorizing the request. "Competent authority" means the Attorney General of Canada, the attorney general of a province, or any person or authority with responsibility in Canada for the investigation or prosecution of offences.

That is all I shall say, honourable senators, on Bill S-24.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Beaudoin, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

SHIPBUILDING INDUSTRY

LACK OF GOVERNMENT SUPPORT—INQUIRY

On the Order:

Resuming the debate on the inquiry of the Honourable J. Michael Forrestall calling the attention of the Senate to the federal government's lack of a national shipbuilding policy to support this industry with a view towards maintaining and advancing the degree of excellence and the technologies for which Canadians are historically renowned and in jeopardy of losing.—(Honourable Senator Bolduc)

Hon. Fernand Roberge: Honourable senators, I rise to speak today in support of my colleague Senator Forrestall, who called the attention of the members of this Chamber to the federal

government's lack of a national shipbuilding policy to support this industry with a view towards maintaining and advancing the degree of excellence and the technologies for which Canadians are historically renowned and in jeopardy of losing.

This is no exaggeration. On the contrary, in recent years shipbuilding in Canada has been going through an unprecedented crisis. In 1990, it employed 12,000 people in the various shipyards across the country, and more than 12,000 others in related trades, for a grand total of 24,000. Six years later, in 1996, this industry employed no more than 5,400.

Despite claims to the contrary, this is not an industry concentrated solely in the maritime provinces. Shipyards are also found in Quebec, Ontario and British Columbia. This is, therefore, an important industry, since it is in seven of the provinces.

In the mid-1980s there were four shipyards in operation in Quebec alone: Longueuil, Sorel, Lévis and Les Méchins in the Lower St. Lawrence. After the industry itself decided to undertake a process of rationalization of its activities in order to ensure its long-term survival, the facilities at Longueuil and Sorel were closed down. Despite this, the situation has deteriorated in recent years, instead of improving.

The shipyard of the Groupe maritime Verreault, located in Les Méchins on the Lower St. Lawrence and headed by the very dynamic Denise Verreault, is in dire straits.

Although, since 1989, this businesswoman has managed to create more than 500 jobs in a region hard hit by unemployment, it is increasingly difficult to get contracts. Ms Verreault is so concerned about the future of the shipbuilding industry in Canada that, in recent years, she has been travelling around Canada from coast to coast in an effort to convince politicians and Canadians of the urgency of establishing a national policy in this area, if we do not want to see this industry disappear. It should be noted that the situation is identical in shipyards in New Brunswick, Nova Scotia, Ontario and British Columbia.

In 1997, the Canadian Shipbuilders Association, which represents all of the country's shipbuilders, tabled a white paper asking the government to quickly develop a new policy on shipbuilding. The officials of this association were categorical: our shipyards are no longer competitive compared to those in Europe, the United States and Asia, countries largely subsidizing shipbuilding and providing tax advantages to shipbuilders and shipowners, which are much more interesting than those available in Canada.

In 1996, there were 2,589 ships being built in the world, and yet Canadian workers were inactive. The measures put in place by the federal government simply failed to ensure the maintenance, in the medium term, of a viable and prosperous shipbuilding industry in Canada.

Honourable senators, the heads of this important industry are not the only ones to put pressure on federal government to adopt a modern shipbuilding policy. In August 1997, at their annual meeting at St. Andrews, New Brunswick, the provincial premiers, aware of the value of the shipbuilding industry for Canada's economy, called on the federal government to review its shipbuilding policy in order to find appropriate ways of helping the industry meet the challenges being set internationally. This stand followed the publication of the Canadian Shipbuilders Association's white paper.

At the moment, the three unions representing workers in shipbuilding and the Canadian Auto Workers are organizing a national campaign to put pressure on the federal government, and the Minister of Industry, in particular, in order to convince it to develop a global policy on shipbuilding.

On May 3, the members of my party in the other House moved a motion similar to the one by my colleague requesting that the government develop a new national policy to revive the Canadian shipbuilding industry. The text of this motion was word for word that of the motion passed in 1993 by Liberal Party delegates at a convention to develop their electoral platform for the general election to be held that same year.

In 1998, these same party members decided at their biannual convention that the motion would become an integral part of government policy. Needless to say that the Liberal wing in the Maritimes also studied this question at length and contacted a number of representatives of shipyards in the Atlantic provinces.

Following the debate on this motion, the four opposition parties in the other place decided to join together to force the government to pass the private member's bill, Bill C-493, of the Bloc member for Lévis, Antoine Dubé. Among other things, he proposed tax exemptions for shipbuilding in Canada and refundable tax credits for the conversion and repair of ships. The bill was in keeping with the requests by the Canadian Shipbuilders Association and our party's position on the matter.

As we can see, honourable senators, it is clear there is a consensus among the people from the shipbuilding industry, the provincial premiers, the unions, the opposition members and Liberal Party delegates that this industry is going through a major crisis and can no longer compete with its foreign competitors, despite our excellent worldwide reputation in shipbuilding and in high tech. Everyone now wants the federal government to develop a real policy on shipbuilding.

The Minister of Industry does not seem to be disposed to respond to this request. This is nothing new, because the attitude of the minister in this matter tends to be similar to the one that holds that this industry is outdated and will disappear in Canada and that it is therefore useless to do everything in our power to save it. Whereas, in a report published in late 1993, early 1994, a group of consultants questioned MIL-Davie's ability to survive in a highly competitive world market, the minister said, on December 7, 1994, in *The Ottawa Citizen*, and I quote:

I do not think this relevant to what I am doing [...] It does not fit in with my ideas.

This says a lot about what he thinks of this industry.

During the debate on May 3 in the other place, the minister did not seem very optimistic about the future of this country's shipyards. He said that Canada had a comprehensive shipbuilding policy and listed the various programs and measures targeting this industry. He also praised the \$198-million relief fund set aside by the Progressive Conservative government between 1986 and 1993, when the industry decided to rationalize. According to the minister, these measures are sufficient to ensure the industry's competitiveness.

Again according to the minister, tax relief and guaranteed loans for ship builders and owners will not necessarily improve the industry's competitiveness, because other factors, such as labour costs, must be taken into account. However, in an interview with *L'actualité* in January 1996, the president of the Groupe maritime Verreault said:

...that a Korean welder earns \$60,000 U.S. a year and that the success of shipbuilding in Denmark, Korea and Japan is based on intelligent fiscal policies, not low wages.

It therefore seems clear that the problem of the shipbuilding industry can be attributed not just to a piecemeal policy ill-adapted to new world realities, but also to a minister who is trying to reduce the importance of this industry in the Canadian economy. It is somewhat unusual to see a politician who seems to be able to afford to sacrifice thousands of well-paid jobs and thus deprive our economy of more than \$625 million annually. It is important that the minister and senators be reminded that the shipping industry in Canada, which includes shipbuilding, employs over 40,000 people and generates over \$2 billion a year.

That is why, honourable senators, it is important to act right away. The measures proposed by Senator Forrestall are also based on the demands of the Canadian Shipbuilding Association. These are, in short: exclusion of new construction ships built in Canadian shipyards from the present Revenue Canada leasing regulations; provision of an improved export financing and loan guarantee program similar to the Title XI program in the U.S.; provision of a refundable tax credit to Canadian shipowners and shipbuilders; and finally, modification of NAFTA or signature of a bilateral agreement with the U.S. in order to eliminate the provisions of the Jones Act which markedly disadvantage Canadian shipbuilders over their American counterparts.

In closing, to all those who are going to say that funding all of these measures would be too expensive, my response is that income and other tax revenue of all kinds generated by this sector of activity are surely going to disappear because in the medium term there will be nothing more built in our shipyards. I would emphasize for the last time that these measures are the object of a broad consensus in our country. They therefore deserve careful examination.

[English]

• (1830)

Hon. P. Derek Lewis (Acting Speaker): If no other senator wishes to speak on this inquiry, it will be considered debated.

INCOME TAX ACT

INCREASE IN FOREIGN PROPERTY COMPONENT OF DEFERRED INCOME PLANS—MOTION PROPOSING AN AMENDMENT ADOPTED

On the Order:

Resuming debate on the motion as modified of the Honourable Senator Meighen, seconded by the Honourable Senator Kirby:

That the Senate urges the Government to propose an amendment to the *Income Tax Act* that would increase to 30 per cent, by increments of 2 per cent per year over a five-year period, the foreign property component of deferred income plans (pension plans, registered retirement savings plans and registered pension plans), as was done in the period between 1990 to 1995 when the foreign property limit of deferred income plans was increased from 10 per cent to 20 per cent, because:

(a) Canadians should be permitted to take advantage of potentially better investment returns in other markets, thereby increasing the value of their financial assets held for retirement, reducing the amount of income supplement that Canadians may need from government sources, and increasing government tax revenues from retirement income;

(b) Canadians should have more flexibility when investing their retirement savings, while reducing the risk of those investments through diversification;

(c) greater access to the world equity market would allow Canadians to participate in both higher growth economies and industry sectors;

(d) the current 20 per cent limit has become artificial since both individuals with significant resources and pension plans with significant resources can by-pass the current limit through the use of, for example, strategic investment decisions and derivative products; and

(e) problems of liquidity for pension fund managers, who now find they must take substantial positions in a single company to meet the 80 per cent Canadian holdings requirement, would be reduced.—
(Honourable Senator Lynch-Staunton)

Hon. Michael A. Meighen: Honourable senators —

The Hon. the Acting Speaker: I must inform the Senate that, if the Honourable Senator Meighen speaks now, his speech will have the effect of closing the debate on this motion.

Senator Meighen: Honourable senators, I am pleased to speak today to close the debate on this motion which I moved and which was seconded by Senator Kirby.

This motion urges the government to increase by 2 per cent per year over a five-year period the foreign property component of pension plans, registered retirement savings plans and registered pension plans from 20 per cent to 30 per cent.

Since members of this place have been debating this motion since December of 1997, there is little I can add today. Accordingly, I will limit my remarks to a very few minutes.

I am pleased to see that this motion restating recent findings of both the House Finance Committee and the Senate Banking Committee will, I believe, receive bipartisan support.

[Translation]

Honourable senators are aware that eight million Canadians, over half of whom have an annual income under \$40,000, depend on these plans as their primary means of planning for their retirement. By supporting this motion, we are saying that the ceiling on foreign investments should be raised in order to allow Canadians to diversify their holdings so as to maximize their investments, with a view to secure financial planning for their retirement.

Honourable senators, this does not mean that foreign markets are superior to Canadian markets. Rather, we are saying that we favour a choice, that we accept the fact that these markets fluctuate and that, while some markets are doing well, others are rather weak.

Any effort to improve the net worth of these retirement plans is good public interest policy. And this is all the more true because, with each new budget and the pressure from the government to lower expenses and future fiscal obligations, Canadians are being called upon to assume greater responsibility for planning their retirement. This pressure flows from anticipated demographic and economic changes, as well as from the size of the national debt.

[English]

Therefore, placing more responsibility for retirement savings on individuals while at the same time restricting their rate of return runs counter to good sense and, indeed, good public policy. This is not to place blame, however, as the foreign property limit dates back to the 1950s, an era much different from today. Moreover, I would remind honourable senators that the limit has already been increased from 10 per cent to 20 per cent between 1990 and 1995.

One cannot open the financial press these days without seeing a report or commentary arguing in favour of increasing the 20 per cent limit. The reason is that the globalization of markets is causing Canadians to seek safety in diversification and wealth creation through greater investment opportunities. The problem today is simple — the current foreign holding limit of 20 per cent is lower than the natural level of foreign holdings, namely, 30 per cent. In other words, in the absence of a limit, experience has shown that the level of foreign holdings in other countries tends to settle at approximately 30 per cent.

Honourable senators will recall that the Minister of Finance, Mr. Martin, has stated that it is not a question of "if" but a question of "when" the limit will be raised. Our colleague Senator Kirby said recently that the proposed change in the foreign content rule from 20 per cent to 30 per cent is clearly a policy whose time has come.

There is a consensus in Canada today on increasing the foreign property component of deferred income plans. Today's bipartisan approval, if that is what this motion receives, will clearly place members of the Senate on the side of average-income Canadians. I ask all honourable senators to support this motion urging the government to increase the foreign property limit from 20 per cent to 30 per cent over a five-year period.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Sharon Carstairs (Deputy Leader of the Government): On division.

Motion agreed to, on division.

NATIONAL DEFENCE

DEBATE RESPECTING POSTING OF TROOPS OUTSIDE CANADA—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Forrestall calling the attention of the Senate to the matter of public debate respecting the posting of CAF members to Kosovo.—(Honourable Senator Carstairs)

Hon. J. Michael Forrestall: Honourable senators —

The Hon. the Acting Speaker: I must inform the Senate that, if the Honourable Senator Forrestall speaks now, his speech will have the effect of closing the debate on this inquiry.

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I do not wish to prevent the senator from speaking. However, he may wish this debate to continue, and I do not necessarily want it to be withdrawn from the Order Paper. Through a lack of observation on my part, I did not realize that this item had reached the fifteenth day. If Senator

Forrestall wishes to close the debate today, then I am more than prepared, of course, to hear him speak. However, if he wishes the debate to continue, then my contribution would continue the inquiry.

Senator Forrestall: Honourable senators, I appreciate the generous offer made by the Deputy Leader of the Government. The inquiry has been on the Order Paper for some time and the apparent lack of interest, in particular from the other side, led me to believe earlier today when I was giving it some thought that, perhaps, I should close the debate on my inquiry. In the fall when we return, perhaps for a new session of Parliament and when we know what we are doing in Kosovo, I will simply reintroduce it.

I am quite prepared today to bring it to an end, unless some other honourable senator wishes to participate.

Honourable senators, as I have just suggested, this is probably the last time this spring that we will speak to the inquiry on Kosovo. It is a shame that we have not had more participation from the other side, other than the intervention of Senator Grafstein. However, I am not surprised there has been little participation in this debate. It must be difficult to speak about a bombing campaign in which one does not believe, especially for those senators opposite who joined the Liberal Party of Canada under the leadership of the Right Honourable Lester Pearson who believed in peacekeeping, international law and the United Nations.

Few senators and few Canadians outside these walls, if any, doubted the necessity of stopping Slobodan Milosevic. That he now faces the international court in The Hague is a consequence that is long overdue.

There has always been the nagging question of how to do it. NATO decided to bomb Yugoslavia to end the tragedy in Kosovo. Time will tell whether it was the right decision. I hope and pray along with many others that it was.

• (1840)

NATO's choice not to seek a United Nations Security Council blessing and supporting resolution will always cast doubt about Clinton, Albright or Axworthy's "soft war." By conventional international law, NATO has violated the United Nations charter and launched a war over how a sovereign government deals with its own people. I am not an expert in this realm, but I have always believed that the means never justifies the end. The end never justifies the means either, for that matter.

Today there are legal scholars who would differ with convention and say that it was right, and that humanitarian international law allows such interventions. The genocide convention calls upon signatories to act, and they will be right, but they fail to remember that the United Nations Security Council, warts and all, still is the authorizing body of military action. If NATO is attacked, then it can defend itself, but NATO in this case was not attacked, and a shadow has been cast — a dark shadow on NATO's previously high moral ground.

Leaving international law and moving into the realm of strategy. I have to ask myself, what has NATO accomplished? Maybe air power alone can win wars; maybe not. We have halted ethnic cleansing now that there are almost a million Kosovars living in refugee camps outside of the country and another 800,000 living in the hills under desperate conditions. Air power alone has not prevented this tragedy.

Maybe we will see the end of Milosevic and his group of henchmen; maybe not. He has survived this long, and only time will tell if he sees the inside of a jail cell. If he goes, just who will follow him, and how do you end hundreds of years of hate and bloodletting? That I do not know.

Will the Yugoslavs keep the bargain they have struck? Will the KLA lay down their arms, return to Kosovo and patiently wait for independence? Will the refugees, whose very sense of trust in all but God has been eroded, want to return?

Who will rebuild the country? Who will rebuild Yugoslavia? Those of you who have been there know the devastation and have seen the ruin. Have we weakened Yugoslavia to the point that a new set of dominoes is preparing to fall? What of the West's relationship with Russia and China?

I am certain the soft power wonder boy of human security is attempting to find some manner of comfort in all of this, and his selective memory that forgets his own past history prior to the end of the Gulf War may succeed in letting him off the hook once again.

Honourable senators, I hope that Canadians will not forget. Someone said the only country whose very democracy was in question over Kosovo was ours, right here in Canada. We have seen the government use "take note" debates on peacekeeping to later justify a phased air campaign. It was not a humanitarian exercise. There were no bags of wheat with a maple leaf stamped on the side attached to Canadian SMART weapons.

We have seen ministers hide behind low-level officials in committee, or not show up at all. We have seen a Prime Minister who talks to the press, but who does not make statements to Parliament about the conduct of the war. Indeed, we have seen committees of elected parliamentarians and senators literally having to beg for briefings on the war.

No one questions the legal right of the Crown to make peace and make war, but parliamentary democracy is based upon the principles of consultation and the ability of the opposition to question the government and expect honest answers.

I wish to thank the Leader of the Government for answering when he could, as he has done much better than his colleagues in the other place — the minister of soft power and war and his honourable friend the Minister of National Defence.

My friends, the democracy in danger has come to us here. An outsider looking in must wonder what our committees do, as this

government has so emasculated the committee process that I am left with questions about its very future.

The government might want to look back at the Gulf War and how, for example, my party consulted with parliamentarians. I recall, and I am sure many of you do, that Prime Minister Brian Mulroney in 1991 made the leader of the New Democratic Party a Privy Councillor so that she could be fully briefed on the war. I also recall how ministers met two or three times a week with committees for briefings. Lastly, I recall how we obtained with our allies a UN mandate to go to war with Iraq, rather than wait for the shooting and bombings to go on for months. The very people who wailed so loudly in 1990 and 1991 spent their time in 1999 justifying their view of law, the world and the war, and hiding from Parliament.

I wish now to turn to the Canadian Armed Forces. I want to say thank you to our men and women of the Canadians Armed Forces for their bravery and dedication to duty.

This is a government that, to some major degree, has shown a complete disdain for the Canadian Armed Forces. Death by a thousand cuts may not have been their deliberate plan, but it surely has been the effect.

This is the government that, with great fanfare, brought forth the plan for a UN rapid reaction force, while it ignored its own capability. To get 800 soldiers to Europe, some choppers and a few vehicles, from warning order to operational capacity, takes about two months.

The only asset we really have for rapid reaction is our navy, and it is stuck with a single Sea King over in the vicinity, which does not fly because they are understandably a little reluctant to put it to too much work.

The air force, too, lacks in-air refuelling to get our CF-18s overseas, so they wait in line for someone else's tanker, and pop up and down across the country and around the world, trying to get to where they are going.

Whenever the government is asked about a gap in capability, they say we have allies who will step in to do all of these things for us — only for Canadians to discover was that, in war, our allies look after themselves and their own assets first, and if there is time left over, or assets, then we might benefit from them.

The army had the Canadian Airborne Regiment, but instead of imposing discipline and showing leadership, this government disbanded the army's only rapid reaction element, with the exception of the Joint Task Force 2 that never leaves the country, should we believe the minister of the Crown, while the *National Post* on Saturday before last suggests otherwise.

It is not a surprise that the Minister of National Defence does not know what is happening within his department. He also does not know what is happening overseas among his principal allies, to whom he supposedly talks regularly.

William Cohen, the Secretary of Defense, is going to a meeting in Europe with his United Kingdom, German, French and Italian colleagues about a ground invasion of Kosovo. He does not speak to his closest ally and neighbour, Mr. Eggleton, and invite him along for those discussions. Inasmuch as we will be integrated with the British, we have reconnaissance capability and, as such, we will be in front of those who are in front.

The day the question was raised here in the chamber, the government leader said Canada's government views its exclusion from such meetings to discuss a ground invasion using, among others, Canada's soldiers to invade Kosovo as "unacceptable."

• (1850)

The next day, the minister responsible says he does not know who was at the meeting, or what was discussed, or what would be its impact on Canadian troops. A day later, he has a better story. It was an EU meeting, it was bilateral, and it was minor. Honourable senators, I have a bridge to sell you: Secretaries of Defense fly every day for meetings on ground invasions of European states; it is commonplace. As a point to whoever comes up with these lines, "bilateral" usually implies something occurring between two states, not among five, or six, or seven — but who is counting or paying attention to the facts anyway?

As the Minister of National Defence does not seem to be able to count or get his facts straight most of the time, it is time to express a few points of concern prior to the deployments and enforcement operation of our ground forces.

Honourable senators, whether the ground force is expanded by government or not, our recce units, as I have suggested, will be the very first to cross into Kosovo. That line is most likely to be wired, booby-trapped, or mined, so the minister or someone ought to keep their eye on the ball.

The rules of engagement must be crystal clear, and it is important that this chamber, this Parliament, understand those rules of engagement. We must be clear about this government's position, and that of the United States and others with respect to disarming the KLA. It is not clear. Indeed, in the last two days it has become very unclear.

Canada, according to its white paper, is supposed to be able to deploy three battle groups of 1,300 soldiers, or a brigade group, for a total of approximately 4,000 troops — the first battle group in three weeks, the brigade by 90 days. So far, we have failed miserably on both counts. We are hard-pressed at the moment to deploy a battle group to Bosnia, and a less-than-battalion group to Kosovo, for a total of 2,100 soldiers, and it takes almost two months to do that.

The government will probably be able to find more soldiers, but they have not trained for the mission, have likely not trained together, certainly have not trained on the equipment or have old,

substandard equipment. I suggest that the minister be prepared for questions.

If, as *The Globe and Mail* suggests, the government intends to deploy Leopard 1 main battle tanks, he had better be prepared for questions, because they are underarmoured and undergunned.

There will be trouble with the Serbs, the Kosovars, the KLA, and the Serb paramilitaries, and the government had better have some answers.

Last but not least, this crisis should prove to all, including Mr. Eggleton and his colleague, the Minister for Soft Power, that crises can come overnight. When they come, countries need well-equipped, professional armed forces prepared to fight and win wars or the peace. Chapter VII missions are now the rule, and Pearsonian peacekeeping, if I heard our Foreign Affairs Committee testimony right, is largely dead.

I say to the government: Get on with the implementation of the 1994 white paper before the Prime Minister, who offers our troops around the world like a parent offering candy to children, finds that the cupboard is bare and he and Canadians are embarrassed, if not endangered, by this government's lackadaisical approach to Canada's military security.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wonder whether Senator Forrestall would take a question.

Senator Forrestall: Certainly.

Senator Kinsella: It relates to the rapid response unit experience yesterday. When our troops were lined up and ready to fly to Thessalonika, the airplane that was chartered was broken down in New York. Does the honourable senator have any information as to our ability to deliver our troops, the few that we have, under those kinds of conditions?

Senator Forrestall: Honourable senators, yes, that was somewhat embarrassing, somewhat unfortunate. In a newspaper that I read this morning, someone made the suggestion that it would be better to send them by slow boat by way of China, which I did not find funny. Pathetically, it might have some ring of truth. We have no airlift capacity to move our own troops.

When ACE was viable and, I thought, a strong commitment that kept Canada and Canadians attached to Europe, we had the means of doing it. In days not so long ago, we maintained a list of vessels that could be commandeered, no matter what pursuit they were involved in, and brought to places of disembarkation to get rid of cargoes they might have on board and then to load troops, supplies, tanks, helicopters, whatever, with minimal decisions or delays. We could put the troops I was speaking about earlier in Northern Europe in 21 days. Now we cannot get to Kosovo in two months. That must be a deterioration. How we will correct it, I do not know. We cannot even refuel our aircraft in the air; we must rely on others, so we cannot rely on airlifts.

The answer, of course, is a return to the white paper of 1994, to pick up the points that were made and get on with bringing the Canadian Armed Forces up to a level so that they can sustain the commitments we have given to them.

The Hon. the Acting Speaker: If no other honourable senator wishes to speak, this matter is considered debated.

CHILD CUSTODY AND ACCESS

GOVERNMENT RESPONSE TO SPECIAL JOINT COMMITTEE REPORT—INQUIRY—DEBATE ADJOURNED

Hon. Landon Pearson rose pursuant to notice of May 11, 1999:

That she will call the attention of the Senate to the Government response to the Report of the Special Joint Committee on Child Custody and Access entitled: "For the Sake of the Children."

She said: Honourable senators, I rise today to expand on the comments I made on the day the government tabled its response to the report of the Special Joint Committee on Child Custody and Access. At that time, I expressed some satisfaction that, on the whole, it appeared that the government had listened to, and had actually heard, the message that we delivered in "For the Sake of the Children." I was not mistaken.

Since then, I have had discussions with the Minister of Justice and others, and have been generally convinced that the government is indeed determined to move ahead with its strategy to implement most of our recommended reforms, at least those that fall within federal jurisdiction, although perhaps not in exactly the way we requested nor in as short a time as some of us might have liked.

However, I am not in such a hurry. I would like us to take all the time we need to get it right, knowing that the government has made such a firm commitment to changing the Divorce Act in the direction we have recommended, and that everyone involved in the process of family separation is already operating in the shadow of that knowledge.

Let me give honourable senators a brief outline of the government's proposed strategy:

First, the government has established four framework principles. The first one is the importance of the child's perspective; the second is the need for governments to work together; the third is a holistic approach; and the fourth is that one size does not fit all.

Within this framework, the government strategy will have six elements. The first element focuses on the child: on the child's best interests, on parental responsibilities with respect to the child, on parenting plans, and on the voice of the child.

• (1900)

The second element is maintaining meaningful relationships, which deals with the aspects of continuing the involvement of both parents, no presumptions, new terminology, enforcement, parental child abduction — which caused us much concern — and recognizing the importance of grandparents.

The third element of the strategy will be devoted to managing conflict, that is, putting measures in place that will encourage cooperative parental agreements, developing a better understanding of and responding to high conflict, concerns about adequate parenting, and false allegations of violence — the entire body of high conflict that we encountered so often.

The fourth element will be enhanced financial responsibility, that is, considering the issues of financial responsibility and how it is shared.

The fifth element is the need for collaboration and partnership, not only among different levels of jurisdiction but also between the various individuals and groups involved in the process.

The sixth element is building a better understanding, which illustrates the importance of research.

Honourable senators, a parliamentary committee is a valuable instrument for laying out issues in a way that reflects public attitudes and the experience of individual citizens. However, committees, at least the ones on which I have sat, simply do not have the resources to commission all the research necessary to ensure that the intention of our reforms will be fully respected as they are implemented.

During our hearings, we uncovered many problems, but we simply could not uncover all the ways these problems could be resolved, nor were we able to ensure that all the legal and other professionals involved in the divorce and post-divorce process, let alone parents and other family members, were fully prepared to abide by our recommended legislative changes in the spirit in which we hope they will be designed.

Australia is a case in point. The Australia Family Law Reform Act, which came into force on June 11, 1996, with objectives similar to those contained in our report, has not yet succeeded in either reducing litigation or improving the quantity and quality of contacts between children and what is still known in Canada as the non-custodial parent. This has been documented by a very interesting report entitled "The Family Law Reform Act: Can Changing Legislation Change Culture, Legal Practice and Community Expectations?"

As a result, the Chief Justice of the Family Court of Australia, the Honourable Alastair Nicholson, who shared a panel with me last Wednesday at the meeting of the Association of Family and Conciliation Courts in Vancouver, warned me that we must take our time and ensure that all people and systems concerned are adequately prepared to work in the same direction.

This warning was echoed by Dr. Janet Walker, the commissioned researcher reporting to the Government of the United Kingdom on the new British Divorce Act, which was passed in 1996, but which has yet to come into force.

Certain American jurisdictions have also been having problems improving outcomes for children by well-intentioned reforms and are putting them on hold or even reversing them. This has been the case with joint custody presumptions and joint parenting plans.

All this tells me is that we need to move with extreme caution in this complex and difficult area. I am convinced that most of our committee's recommendations are sound but, for the sake of the children, we should take the necessary time to ensure that the provinces and territories are moving in step with the federal government on these family law reforms. I understand that a paper is being prepared for the next meeting of the federal-provincial-territorial committee on family law in October that will detail the changes that will be necessary in the provinces to ensure that all jurisdictions are on the same wavelength, but setting those changes in motion will take time.

We need time to learn more about how to involve children effectively in the divorce process. There is solid research being done in that area, particularly in the United States, but we should have a number of models in hand if we are to be successful in giving children a voice.

We also need time to gain more experience with the Unified Family Court to see if it is as positive a move as our recommendation would suggest. I believe it is, but another year of observation of the new courts that are opening only this September will be very useful in determining whether we wish to expand them.

Furthermore, if our recommendation that parenting orders be in the form of parenting plans is to be effective, we need time to run a pilot project. That may be possible next year. We also need time to understand the components of the parenting after-education programs that are essential for them to be successful, especially if they are to reach rural areas. Health Canada will be evaluating five existing models starting this year.

There are any number of other areas that need further investigation, such as mediation, but it is vital that we have a better understanding of the implications of domestic violence, including false allegations of abuse, for the proper implementation of the shared parenting concept. This will also take time.

We will never know enough to be sure that all children are protected, but the more we know, the more responsible to them we will be.

Finally, it only makes sense to me that we wait for the review of the child support guidelines before we reform the whole Divorce Act. Although examining the guidelines was not part of our mandate, we heard so much about them that we know that

some changes at least will be necessary; changes that can be associated with our committee's support for the need for parents to share their financial resources with their children.

The report of the Special Joint Committee on Child Custody and Access reflects a vast amount of personal pain and a large amount of public concern. I believe the government recognizes this and has made a major commitment to reforming the divorce culture so that children are better served. The government strategy is well designed and, God willing, will be well executed but, for the sake of the children, we must be sure we know what works and what does not. There is already a growing crowd of judges, lawyers, mental health professionals and family members moving in the same direction, but we need to add to it. When the crowd is large enough, the legislation will work, and the children will come out winners.

On motion of Senator DeWare, for Senator Cohen, debate adjourned.

REVENUE CANADA

ABUSIVE AND ILLEGAL TAX COLLECTION TACTICS— INQUIRY—DEBATE ADJOURNED

Hon. Donald H. Oliver rose pursuant to notice of June 3, 1999:

That he will call the attention of the Senate to methods by which taxpayers in Canada may be better protected from abusive and illegal collection tactics utilized by Revenue Canada, its agents and employees, by reviewing the results of a similar study of the IRS.

He said: Honourable senators, we have spent many weeks in both committee and this chamber debating Bill C-43, the government's bill which establishes the new Revenue Canada agency. We have spent a good deal of time trying to find ways to better protect those employees who will be transferred to work for this agency. Senator Bolduc made some persuasive remarks about ensuring the merit principle prevails.

During that debate, we did not address in any detail the issue of taxpayer protection from abuse at the hands of this new body. I believe it appropriate now, as this body will soon be sustained, that this chamber have a full debate on methods by which taxpayers can assert their rights and be protected from overzealous tax collectors. Every week, senators and members of the other place receive communication in the form of e-mails, letters, faxes, and phone calls from Canadians, particularly from the small-business community, who are under siege by tax collection agencies.

It is unsatisfactory in the extreme for us as legislators to attempt to resolve these complaints one at a time. There must be a better way, a more consistent way, to address these alleged abuses. For some time now I have watched our neighbours to the south deal with the subject, and I believe that we can learn from their experiences.

In the early part of this decade, a number of illegal actions by the Internal Revenue Service of the United States came to light. In response to these complaints, the National Commission on Restructuring the Internal Revenue Service was established to review the practices of the IRS and to make recommendations for modernizing and improving its efficiency and taxpayer services. The report of this commission was issued on June 25, 1997, entitled "A Vision for a New IRS." That report contained recommendations relating to the executive branch governance and management of the IRS.

• (1910)

As well, recommendations were also made for congressional oversight, personal flexibility, customer service and compliance, technology modernization, electronic filing, tax law simplification, taxpayer rights and financial accountability. To put it more simply, the entire agency had to be revamped.

Both Houses took up the subject of this report. The House of Representatives initiated a bill entitled "The Internal Revenue Service Restructuring and Reform Act of 1998." The Senate Committee on Finance, under the able chairmanship of Will V. Roth, Jr., began hearings of its own in 1997 on the practices and procedures of the Internal Revenue Service.

I know Senator Roth, and I have had an opportunity to speak to him about his inquiry. The hearings in September 1997 and May 1998 uncovered startling problems of a government agency taking the law into its own hands, engaging in deliberate, illegal acts and the use of scare tactics, all in the name of doing its job regardless of whether there was any basis for using anything other than normal procedures. The stories told to the Senate Committee on Finance were heart-rending as well as terrifying.

My concern is, based on representations from small and medium-sized business enterprises, that similar abuses exist in Canada such as issuing third party demands without justification but simply to embarrass businessmen with their customers.

My research in the United States has uncovered many of these stories. The IRS has been known to seize the assets of both husband and wife when the debt belonged to only one of them, and then refusing to release the lien against the innocent spouse's assets when notified that she was not in any way a party to the debt. I read about outright lies being used to gain access to confidential files held by taxpayers' lawyers, assets which amounted to much more than the debt seized and sold, with no money going back to the taxpayer. These and other stories may seem scandalous, but as members of Parliament who are looked to in times of need, we know all too well that these stories likely exist in Canada as well. I do not wish to belabour the point of abuse, but I would be pleased to share my research with honourable senators. Everything I did collect is available on the Internet.

Rather than dwell on the stories of abuse, I wish to turn to what was done in the United States. The Commissioner of the IRS appeared at the hearings of the Senate Committee on

Finance held in May of 1998. He indicated to the committee the work he was doing to reform the IRS. In what I believe was a novel solution to the issues raised by the taxpayers at the Senate hearings, both the Senate committee and the commissioner agreed that these individual matters should be referred directly to the IRS for resolution.

As chairman, Senator Roth explained at the beginning of the May hearings:

Last Friday, when Commissioner Rossotti and I met, we agreed that the course of IRS reform would best be served by focusing on solutions and not adjudications of the specific problems we've heard during the course of our oversight.

Today we will focus on solutions to the serious concerns our oversight has raised, rather than address specific cases.

This meant that those who had raised personal problems with IRS tactics would have them addressed by the commissioner reviewing their cases internally with the agency, thus leaving the Senate committee free to look at how systemic problems could be resolved.

Again, as Senator Roth said during the proceedings of his committee:

Oversight is a painful process. It means focusing on the things that are wrong. It means seeing things you wouldn't wish to see and hearing things you'd prefer not to hear. But once that process is under way, real change becomes possible.

As a result of these hearings and the work of the Commissioner of the IRS, Charles Rossotti, a report was released validating the concerns raised by the Senate committee which also contained a commitment to reform the service.

Second, the Senate committee drafted and proposed a bill, eventually passed in both houses, which received executive approval. This bill, entitled "The IRS Restructuring and Reform Bill," provides both the IRS oversight mechanisms and taxpayer protection.

Chairman Roth described it as:

...replete with strong, vital measures that will protect taxpayers and employees. It will give taxpayers more rights. It will require a 30-day notice before assets can be seized. It will protect innocent spouses. It will provide for stringent and continued oversight of the IRS.

The reform bill was built on three principles: first, increasing oversight of the agency to prevent abuse; second, holding IRS employees accountable for their actions and rewarding employees who treat taxpayers fairly; and, third, ensuring that taxpayers are treated with fairness by creating a whole new arsenal of taxpayer protections.

A Taxpayers Advocates office was created, which is independent of the agency to ensure that they represent the interests of the taxpayer. The abusive conduct of IRS employees was dealt with by this statute, holding them accountable for their actions by requiring the IRS to terminate employees who commit perjury, falsify documents or violate the rules to retaliate against a taxpayer. As well, due process is ensured in collection activity.

Honourable senators, I have spent this time on a recently enacted United States statute because I believe it addresses some of the abuses that have been brought to my attention as existing here in Canada. I urge other honourable senators to take part in this inquiry. I would hope that, after we explore the issues surrounding tax collection in Canada, perhaps we could develop a reference of this matter to either the National Finance Committee or the Banking Committee to conduct a thorough study in this area. After such a study, I am hopeful that we could fashion our own legislation which would be protective of the rights of taxpayers.

I wish to thank honourable senators for allowing me this opportunity to begin debate on this inquiry today.

On motion of Senator DeWare, for Senator Bolduc, debate adjourned.

CHILDREN OF DIVORCE

MOTION OF AFFIRMATION AND RESOLUTION IN SUPPORT OF ENTITLEMENTS—DEBATE ADJOURNED

Hon. Anne C. Cools, pursuant to notice of June 1, 1999, moved:

That the Senate of Canada uphold its unique, historical, constitutional and parliamentary interest and role in divorce and in granting bills of divorce, as demonstrated by the Senate's former Standing Committee on Divorce, and that the Senate continue to assert its special role and interest in the condition of the children of divorce;

That the Senate upholds that the Senate has vigorously renewed this interest by its actions upholding the entitlements of children of divorce to the financial support of both parents according to respective abilities, and by the Senate's actions to amend Bill C-41, *an Act to Amend the Divorce Act and other related Acts*, amended by the Senate on February 13, 1997, concurred in by the House of Commons on February 14, with Royal Assent on February 19, 1997;

That the Senate upholds that a corollary to the Senate's passage of Bill C-41 in February 1997 was the will, agreement, and intention to constitute a joint committee of the Senate with the House of Commons to examine the previously unstudied and neglected question of the

condition and functioning of children, within the hitherto established regime of custody and access in divorce;

That the Senate affirms that this Special Joint Parliamentary Committee of the Senate and House of Commons was constituted by a joint resolution, moved in the Senate on October 9, 1997 and adopted in the Senate on October 28, 1997, and moved in the House of Commons on November 5, 1997 and adopted in the House of Commons on November 18, 1997;

That the Senate affirms that this Special Joint Parliamentary Senate-Commons Committee on Child Custody and Access in divorce traveled across Canada, held numerous sittings, heard testimony from over 520 witnesses and reported to the Senate on December 9, 1998 and to the House of Commons on December 10, 1998 by its Report, *For the Sake of the Children*;

That the Senate affirms that this Special Joint Parliamentary Senate-Commons Committee concluded that upon divorce, the children of divorce and their parents are entitled to a close and continuous relationship with one another, and, consequently, recommended that the *Divorce Act* be amended by Parliament to express this joint nature of parenting by inserting the legal concept "shared parenting" in the *Divorce Act*, and also by including in the *Divorce Act's* definition of the "best interests of the child", the importance of the meaningful involvement of both parents in the lives of the children of divorce;

That the Senate affirms that on May 10, 1999, six months after the Committee's Report to both Houses of Parliament, more than two years after the passage of Bill C-41 in February 1997, the Minister of Justice, Anne McLellan, gave her ministerial response to the Committee's conclusions and recommendations in her paper entitled *Government of Canada's Response to the Report of the Special Joint Committee on Child Custody and Access: Strategy for Reform*; having fully accepted the Committee's major recommendations, and having accepted that the divorce law regime currently in force is wanting and needing correction, she then proposed a three-year delay to May 1, 2002 for her legislative action to correct the obviously wanting divorce law regime;

That the Senate asserts that the recommendations of a committee of Parliament, the Highest Court of the Land, the Grand Inquest of the Nation, is the highest recommendation of the land, and that such advice and counsel of Parliament is the most complete, representative, constitutional, and the most efficient form of advice a government can heed; and that the Senate asserts that the responsible Minister and the Ministry owe a moral, a political, and a constitutional duty to Parliament to accept and follow the advice of Parliament;

That the Senate asserts that the Parliament of Canada, by its own study, examination, and conclusions, is now seized of the knowledge, that the divorce law regime currently in force in Canada is defective, insufficient, and even harmful, to the needs of children of divorce, their parents, and their families; and that the Senate being seized of this knowledge of the inadequate state of the divorce law regime, has a moral imperative and a bounden parliamentary duty to correct the situation forthwith, because possessing the knowledge of the children's plight and ongoing damage to them, Parliament's continued inaction and neglect is unconscionable:

That the Senate upholds the enormous public support of the people of Canada for the entitlements of the children of divorce to meaningful involvement with both their parents and families, and that the Senate further upholds all the children, their parents, and their families afflicted by the current divorce law regime; and

That the Senate of Canada, by virtue of the doctrine of the *parens patriae*, and the Senate's duty as stewards of the children of divorce, resolves to defend and protect the children of divorce; and that the Senate resolves to vindicate the needs and entitlements of the children of divorce to the emotional and financial support of both parents; and that "for the sake of the children" and in the "best interests of the child," the Senate resolves that the responsible Minister, Minister of Justice Anne McLellan, should cause a new divorce act to be introduced in the Senate or in the House of Commons, to implement, without delay, these recommendations of the Special Joint Committee on Child Custody and Access.

She said: Honourable senators, on the question of divorce, the role of senators in the past and the present is legend. In February 1997, on Bill C-41, to amend the Divorce Act and other related acts, the Senate reaffirmed its protection of children.

I am indebted to the Conservative senators, particularly Senator Duncan Jessiman, for this assertion of the Senate's peculiar constitutional role to uphold, protect and represent the children of divorce. I applaud our now retired Senator Jessiman.

Honourable senators, it had been the Liberal Minister of Justice, the late Mark MacGuigan, in Prime Minister Pierre Trudeau's government, who first proposed the term, "the best interests of the child," for the Divorce Act. On January 19, 1984, in the House of Commons, Minister MacGuigan introduced Bill C-10, to amend the Divorce Act. It later died on the Order Paper when Parliament dissolved, in July. Bill C-10's clause 10 proposed to add to the Divorce Act, in section 12, a new section 12.1 (3), headed "Principles respecting children," that would have read, in part:

12.1 (3) In the exercise of jurisdiction under sections 10 to 12 in respect of children, it is the duty of the court to take account of the best interests of the children as its paramount consideration and to give effect consistent therewith to the following principles; namely,

(a) the spouses have a financial obligation to maintain the children of the marriage, which obligation shall, in so far as is practicable, be apportioned between the spouses according to their relative abilities to contribute to its performance, taking into account the means and needs of the spouses and children;...

(c) the children of the marriage ought to have as much access to each of the spouses as the circumstances permit;...

• (1920)

Minister MacGuigan had anticipated that the courts and legal practitioners would apply "the best interests of the child" to mean the child's entitlement to a full relationship with both parents. Prime Minister Brian Mulroney's new Conservative government's Throne Speech of November 1984 pledged a new divorce regime. Minister of Justice John Crosbie redrafted Bill C-10 extensively and, in 1985, he introduced his own divorce bill, Bill C-47, entitled: "An Act respecting Divorce and Corollary Relief," and also Bill C-46 and Bill C-48, the passage of which in 1986 all created the current divorce law regime. Minister Crosbie retained the phrase "the best interests of the child" in Bill C-47. However, his concept was not exactly as Minister MacGuigan had intended.

From then till now, the development of family and divorce law took some strange turns, such that "the best interests of the child" became the best interests of custodial parents, mostly mothers, and non-custodial parents, access parents, mostly fathers, became visitors and observers in their children's lives.

In his 1995 article "The Best Interests of the Child," about this and the Supreme Court of Canada's 1993 judgement in *Young v. Young*, Queen's University Law Professor Nicholas Bala wrote, at page 455:

Justice L'Heureux-Dubé ... wrote a lengthy dissenting judgment in which she emphasized that the best interests of the child are served by protecting the position of the custodial parent...

About Justice L'Heureux-Dubé, he added, at page 461:

...she offers an explicitly feminist analysis...

About her judgement in *Young v. Young*, he stated, at page 462:

In regard to parental rights after separation, she argues strongly in favour of a legal regime that supports the decision-making authority of the custodial parent. "The role of the access parent is 'that of a very interested observer, giving love and support to the child in the background.'"

In the 1995 Supreme Court judgement in *Gordon v. Goertz*, Madame Justice L'Heureux-Dubé reiterated, at paragraph 110:

Important as contact with the non-custodial parent may be, it should be noted that not all experts agree on the weight to be given to such contact in assessing the best interests of children.

Honourable Senators, Ontario Court General Division Justice Robert Blair, in his 1991 judgement in *Oldfield v. Oldfield*, is especially enlightening. About Mr. Oldfield's relationship with their children, Justice Blair said, at paragraph 5:

That this is a loving and caring relationship is apparent.

That is, the relationship with the father.

About Mrs. Oldfield, unhappily living in North America and wishing to move to France with their children for her prospect of marriage to a boyfriend, Justice Blair said, at paragraph 6:

Is it "in the best interest of the children" to make an order which effectively defeats this prospect and leaves them in the daily care of a mother who loves them dearly but who is shackled by her discontent?

Justice Blair permitted Mrs. Oldfield's move to France for this marriage. Mrs. Oldfield and the children did move to France, but that marriage never ensued. Mr. Oldfield's high child support payments then financed the children's trips to Canada for his access to them.

Honourable senators, the term "best interest of the child" went astray from the late Mark MacGuigan's intentions. It became an opportunity for shutting fathers out of their children's lives, for dispossessing children of their parents, and parents of their children.

Honourable senators, now to the Senate's encounter with Bill C-41 in February 1997. The then Liberal Minister of Justice Allan Rock's Bill C-41 was introduced in the Senate, having sailed through the House of Commons unquestioned. It proposed to repeal sections 15.(8) and 17.(8) of the Divorce Act, the provisions which had imposed the joint financial support obligation to their children on both parents, and also enabled the Federal Child Support Guidelines. The Senate amended Bill C-41 by reinstating that clause founding the Federal Child Support Guidelines, regulations on this joint and shared financial duty of parents. That clause, now section 26.l(2) of the Divorce Act, reads:

The guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation.

Honourable senators, the public support for these Senate actions was unprecedented. As a corollary to Bill C-41's passage,

the Senate obtained agreement to a joint parliamentary committee on the neglected issue of child custody and access in divorce. I agreed to a joint committee, rather than a Senate committee, because I, as did Senator Jessiman, believed that a joint committee would be the best vehicle to bring forward concerns and opinions, because it would include two of the three estates of Parliament, the Senate and the Commons. Knowing that, by the sheer number of political parties' members on it, a joint committee would be more cumbersome than a Senate committee, we believed that a joint committee's study and recommendations would be a certain, efficient, and direct route to the government's inclination and mind because Parliament is the highest court of the land, and a concerned minister would welcome its opinion and feel responsible to it.

Honourable senators, Recommendation No. 5, the shared parenting legal concept, the most significant recommendation of the Special Joint Committee's report "For the Sake of the Children," states, at page 27:

This Committee recommends that the terms "custody and access" no longer be used in the *Divorce Act* and instead that the meaning of both terms be incorporated and received in the new term "shared parenting", which shall be taken to include all the meanings, rights, obligations, and common-law and statutory interpretations embodied previously in the terms "custody and access."

About this, Liberal Minister of Justice Anne McLellan, in her May 1999 response entitled "Government of Canada's Response to the Report of the Special Joint Committee on Child Custody and Access: Strategy for Reform," stated, at page 12:

This recommendation is important, and further consideration of this proposal will be a high priority for the Government.

I repeat, a "high priority." She continued:

We share the Committee's concern that the current terms in the *Divorce Act* have the potential to escalate conflict between divorcing parents. In particular, we agree with the Committee's conclusion that there is a need to rectify the unfairness and inequality that has come to be associated with the term "sole custody." In some cases, this term is being interpreted as vesting the custodial parent with exclusive rights over the children and relegating the non-custodial parent to the status of "visitor." This situation needs to be changed.

Honourable senators, the terms "visitor" and "observer" entered the divorce lexicon after Justice L'Heureux-Dubé used the term "observer" in *Young v. Young*. The minister clearly accepts the major recommendations and principles of the committee's report. She clearly accepts the need for correction to the current divorce law regime. The minister, to her credit, has received the public call for change. The problem is her time-frame.

Honourable senators, I have studied the incalculable pain and suffering of thousands of children, mothers, fathers, grandparents, and other family members. Disturbed by the disinclination of Parliament and the courts to vindicate the emotional needs of children for both parents, for both mothers and fathers, I have been shocked by this collective recklessness with children's lives. For years, I have been inspired and deluged by thousands of letters and requests as burdened and anguished Canadian families appealed for my help, all questioning how governments of their beloved country can allow these injustices to continue.

I have studied this issue, its injustice, and its consequences for the children of divorce and their families. I have studied the legal documents of hundreds of fathers falsely accused during divorce and custody proceedings by mothers of sexually abusing their children. This phenomenon is a heart of darkness. Such false accusations are soul-destroying to those afflicted fathers and families.

On such false allegations, I welcome Professor Nicholas Bala's and John Schuman's recently released study "Allegations of Sexual Abuse When Parents Have Separated." I feel vindicated. I note that in their study they cite many cases and judgements that I have brought to the attention of the Senate and that I have quoted, including the cases of *Reverend Dorian Baxter v. the Children's Aid Society of Durham Region*, *Barbosa v. Dadd*, the *Law Society of Upper Canada v. Carole Curtis*, *Metzner v. Metzner*, *Plesh v. Plesh*, and others. These false accusations are a strategy to obtain sole custody and to defeat the other parent legally, emotionally, and financially. It is a potent and destructive use of legal process by one parent to dispossess the other parent of a parental relationship with their children.

Honourable senators, the other issues include parental alienation, grandparent alienation, and access denial. Governments have prescribed hefty penalties for non-custodial parents, fathers mostly, who lose their jobs and are unable to pay child support, including passport denial. Some even wish to create new criminal offences. Yet, about custodial parents, usually mothers who deny access to non-custodial parents, usually fathers, there is only silence and a systemic complicity.

On custody, children, and the courts' disinclination to enforce its orders, Lord Hartley Shawcross, in his famous 1959 work "Contempt of Court," wrote, at page 35:

The Court of Appeal pointed out in *Gordon v. Gordon* the unsatisfactory state of the law in which the unfortunate infant might not gain the protection intended by the court, owing to a lack of effective action to enforce the order of the court.

I repeat, these unfortunate children are denied the court's protection.

It is scandalous that parents, mostly fathers, must spend inordinate amounts — hundreds of thousands of dollars — to maintain contact with their children. I repeat, the disinclination of Parliament and the courts to vindicate the needs of children of

divorce is an injustice. However, the Senate upholds the needs of the children of divorce and urges the minister to act.

Honourable senators, a full six months after the special joint committee's December 1998 report to Parliament, Minister McLellan has set a three-year time-frame to May 1, 2002. That is three and one-half years from the committee's report. The minister states that this May 1, 2002 date will coincide with the five-year review of the child support guidelines, regulations created by Bill C-41, the very bill that the Senate amended and passed reluctantly in February 1997, whilst informing the government of its very deep flaws.

The minister will have asked for five years to correct a regime that the Senate has clearly told her was defective and harmful to children of divorce. We told her then that the divorce law regime was defective. A joint parliamentary committee has told her. The public has told her. Further, May 1, 2002 is beyond this government's term of office, and beyond this minister's watch.

Newspaper editorials have been unanimous in their condemnation of the minister's proposed delay. Their editorial headlines are instructive, and some read as follows. The headline in the May 12 issue of *The Globe and Mail* read, "Who is acting for the children? The Justice Minister is curiously reluctant to amend the Divorce Act." The headline in the May 12 issue of *The Gazette* of Montreal read, "The courage to act." The headline in the May 12 issue of *The Toronto Star* was, "Disappointing delay." The headline in *The Vancouver Sun* of the same date was, "Legislative dodging hurts the children of divorce." The May 13 edition of the *National Post* read, "Fathers under fire."

These editorials, a plethora of other media comment, and the public in general, all disapprove of Minister McLellan's proposed delays. These commentaries are instructive and insightful of some current ministers' attitudes to ministerial responsibility and to Parliament. Consequently, many ponder the diminishing notion of a minister as a servant of Parliament and a minister as responsible to Parliament.

I hope that the minister's proposed delay is intended to keep us in suspense, and that, in its Throne Speech at the start of the expected new session of Parliament this fall, the government — my government — will reveal its plan for a new Divorce Act, upholding fairness, balance, and equilibrium, and upholding the entitlements of children of divorce to the love and support of both parents, both mothers and fathers. To uphold the entitlement of children of divorce to the emotional and financial support of both parents is a duty imposed on the Minister of Justice, the cabinet, the Senate and Parliament, by virtue of Her Majesty's Royal Prerogative, the *parens patriae*.

Honourable senators, to do less is unacceptable, even irresponsible and immoral. To know of the injustice of the divorce law regime currently in force and not to act forthwith to correct it is unconscionable. Further, such inaction is inconsistent with every principle on which we found government, and violates all that we consider to be just, honourable, and true. It violates every ethic of social and moral justice.

Honourable senators, we urge the minister to bring in a new Divorce Act, to honour the children of divorce, their families, and the people of Canada.

I urge all honourable senators to support this motion.

On motion of Senator DeWare, debate adjourned.

moved:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Wednesday, June 9, 1999, and at 3:30 p.m. on Wednesday, June 16, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET
DURING Sittings OF THE SENATE

Motion agreed to.

The Senate adjourned until Wednesday, June 9, 1999 at 1:30 p.m.

Hon. Lorna Milne, pursuant to notice of June 3, 1999,

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 9, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Wednesday, June 9, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.
Prayers.

SENATORS' STATEMENTS

NEW BRUNSWICK PROVINCIAL ELECTION, 1999

**CONGRATULATIONS TO PROGRESSIVE CONSERVATIVE
PARTY ON WINNING OFFICE**

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was examining the *Debates of the Senate* yesterday, and my eyes fell upon the date of October 4, 1995. I thought honourable senators would like to be reminded of what occurred at that time.

Senator Bryden, on that day, stated:

Honourable senators, I should like to draw your attention to the fact that while most of you were enjoying a well-earned summer break, Senator Simard and I were engaged in a somewhat partisan contest in the province of New Brunswick. During that time, in his own inimitable fashion, Senator Simard referred to Frank McKenna and I as two puppies who had made a mess and should have our noses rubbed in it.

I was reminded of that reckless position on September 11. The people of New Brunswick presented us with a beautiful bouquet of 48 red roses. The premier and I rubbed our noses in them and the fragrance will stay with us for the next four years.

Senator Bryden: Good stuff!

Senator Lynch-Staunton: Who is the florist?

Senator Graham: What a fragrance!

Senator Kinsella: Many in New Brunswick missed the participation, leadership and guidance of Senator Bryden.

Senator Graham: Hear, hear!

Senator Kinsella: Some of us waited in great anticipation to counter a move here or a move there that would have come had Senator Bryden been at the helm. Those moves did not come, and our rapid response team had nothing to which to respond.

Senator Lynch-Staunton: Nothing to swat!

Senator Kinsella: As honourable senators know, and in some modesty we are reluctant to report, on Monday, June 7, 1999, the bloom was surely off those Liberal roses.

My congratulations go to premier-elect Bernard Lord for a well-run campaign, one that resonated so well with the people of my province.

Some Hon. Senators: Hear, hear!

[*Translation*]

REGIONAL COUNCIL OF ITALIAN-CANADIAN SENIORS

**CONGRATULATIONS ON TWENTY-FIFTH ANNIVERSARY OF
FOUNDING BY THE HONOURABLE MARISA FERRETTI BARTH**

Hon. Léonce Mercier: Honourable senators, the Regional Council of Italian-Canadian Seniors celebrated its 25th anniversary this past May 14, 15 and 16. This organization was founded by Senator Marisa Ferretti Barth.

We were treated to three days of highly colourful celebrations, including a walkathon involving 1,700 seniors, two wonderful concerts, and a mass celebrated by the Apostolic Nuncio, to name but a few. A number of dignitaries were in attendance, including Ministers Gagliano and Pettigrew, the Italian Ambassador, the Mayor of Montreal, a number of MPs and senators, myself included, and the municipal councillors, and of course the honourary chairwoman, Ms Mirella Saputo.

I congratulate Senator Ferretti Barth for her excellent work since the creation of this regional council, and for her devotion to senior members of the various cultural communities.

The organization paid tribute to its founder with the unveiling of a superb bronze bust depicting Senator Ferretti Barth's ever-present smile. This was the most emotional moment for all of us. Once again, Madam Senator, congratulations for your commitment to this cause you hold so dear.

[*English*]

NEW BRUNSWICK PROVINCIAL ELECTION, 1999

**CONGRATULATIONS TO PROGRESSIVE CONSERVATIVE
PARTY ON WINNING OFFICE**

Hon. John G. Bryden: Honourable senators, it is not coincidental that I am wearing my black suit today, as I am an honourable senator troubled.

It is true, as Senator Kinsella said, that I was not as intimately involved in this campaign as I had been in others. Nevertheless, politics is a team sport, and my team got whipped on Monday. Therefore, I am in my second day of mourning.

• (1340)

When you are in this business — if I could paraphrase someone who said this about money — you sometimes must admit that you have won or I have lost. As you can tell from the smiles opposite, winning is much better.

I should like to add my congratulations to Mr. Lord and to his fellow MLAs, and wish him well. As well, I want to congratulate the Liberal members who were successful. To all of the candidates who fought in the election, including those who lost — and I lost some friends — congratulations for taking part in the process.

Mr. Lord and his team must now govern. Mr. Thériault and his team must watch, and test and debate, and give full consideration. Both will do their jobs, and do their jobs well. I am sure.

I am not concerned about the youth of the premier designate. New Brunswick has done very well in choosing and betting on young leaders with potential. In 1960, New Brunswick chose Louis Robichaud, who created a revolution in our province with the "Programme of Equal Opportunity," which was hard fought, and the province continues to be better for that.

Some Hon. Senators: Hear, hear!

Senator Bryden: In 1970, Richard Hatfield, who was a member of the opposition at that time, was chosen as leader, and many thought that he would undo some of those reforms. That did not happen. Richard Hatfield, at least for the first two — perhaps three — terms in office, built on those reforms, advanced them and, indeed, did a great deal towards bringing the francophone and anglophone populations together in advancing that program.

In 1987, Frank McKenna, who, like the others, was in his 30s, became leader and, over a period of time, wrestled the deficit to the ground. Mr. McKenna did a tremendous job in moving us on to the national and the world stages and, as many in New Brunswick will agree, reinstilled some pride and self-confidence in New Brunswickers.

Now, it is Bernard Lord, in 1999. Our hope and my belief is that he will continue to build our wonderful province on the foundation and success of his predecessors. I, and all New Brunswickers, wish him well.

I also wish to congratulate New Brunswickers, and the party, for one more thing. I should like to congratulate the party on the civility of our campaign. There were no U.S.-style attack ads, no violent demonstrations, no threats to disrupt the democratic process at the polls, no continuing divisions and disunity. Tuesday was a day for elation and disappointment. Today, we are back to being neighbours and friends, and citizens of one of the greatest provinces in our Confederation.

Some Hon. Senators: Hear, hear!

Senator Bryden: Finally, a word of hope. The national Conservative Party could take some hope from what has happened in New Brunswick on Tuesday. You, too, if you continue to persevere, may come back from the ashes and may, at some point in the future — perhaps three or four elections from now — get the opportunity, Senator Kinsella, to smell the heady sense of victory.

NOVA SCOTIA

CONVENT OF THE SACRED HEART SCHOOL IN HALIFAX—
ONE HUNDRED AND FIFTIETH ANNIVERSARY

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, on May 21, 1999, the Convent of the Sacred Heart, in Halifax, celebrated its one hundred and fiftieth anniversary as a school. The school, now known as Sacred Heart School, remains primarily a girls' school. However, it now accepts boys up to the age of 12, or in grade 6.

The Convent of the Sacred Heart was one of five convents established by the Religious of the Sacred Heart, Les dames du Sacré-Coeur: two in Montreal — one in English and one in French — one in Halifax, one in Vancouver and one in Winnipeg. Sadly, for me, there are only two schools left: the one in Halifax and the City House in Montreal.

The nuns, whose order was formed some 200 years ago in France, provided me and all of its other graduates, with a wonderful education. Daily prayers in English, French and Latin, curtsies by the thousands, could not deter from the high level of education which made it one of the very few schools in the Nova Scotia of that day that were exempted from writing provincial examinations.

Honourable senators, it was a marvellous education. Just as a bit of history for this particular chamber, when I was reviewing the accomplishments of women in politics for a book that I wrote a couple of years ago, almost all of the women who have achieved political firsts in Canada, except for the more recent ones, graduated from single-gender schools. Two of us, the Honourable Thérèse Casgrain and myself, were educated by Les dames du Sacré-Coeur.

[Translation]

THE HONOURABLE LUCIE PÉPIN

CONGRATULATIONS ON APPOINTMENT AS
CHEVALIER DE L'ORDRE NATIONAL DU QUÉBEC

Hon. Pierre Claude Nolin: Honourable senators, I wish to remind you that the Premier of Quebec, on behalf of the Government of Quebec, has recognized one of our colleagues, Senator Lucie Pépin. Senator Pépin was appointed Chevalier de l'Ordre national du Québec. This is proof, honourable senators, that those nasty separatists from Quebec are capable of recognizing the talent of federalists.

[English]

AGRICULTURE AND AGRI-FOOD

Hon. Eugene Whelan: Honourable senators, I wish to express the same concern that I have expressed over time for the decision of the Government of Canada to dismantle our Agriculture Canada research stations and leave research under the direction and funding of the private sector.

My concerns have proven to be well founded that the multinationals would only wish to fund research into products that they could control by their patents, or by genetically engineering them so that farmers cannot themselves reproduce seeds, forcing the farmers to buy new seeds each year.

A recent article in *The Western Producer*, by Barry Wilson, demonstrates that my fears, and often-stated warnings, about the dangers of dismantling our research capabilities are now being repeated by many other people. I hope that this recognition does not come too late.

The article states that over the last 10 years, as we have moved from publicly funded research to that funded by multinationals, the situation is not good. We now find that the scientists are forced to spend over a third of their time in fundraising rather than research. Funds are more readily available for short-term projects that will quickly turn a profit rather than for basic research for the common good. Government laboratory equipment is being exploited for short-term gain, and is not being replaced as it wears out. Private companies will not fund laboratories they do not own.

Here in the nation's capital, some short-sighted and costly decisions have been made. For example, the Research Centre for Plant and Animal Diseases, the Greenbank Farm, has been closed, the property rented out and the equipment sold.

• (1350)

The Greenbank Farm Research Station facility was one of the most modern in the world. It had the land and facilities to do research on grain, dairy, beef, hogs and poultry. In closing our facilities here in Ottawa, we lost over 300 scientists from the capital region.

Honourable senators, I wish to point out that we had the largest dairy project in the world. We had over 1,200 dairy cattle being used in research at two different stations, 500 in Ottawa alone. We had beautiful equipment.

We also had the capability of displaying our research skills and modern production practices to foreign visitors to our city. When I was minister, nothing would please me more than to tour those research facilities with foreign dignitaries, who came here to observe for themselves why we were so productive in Canada, in this cold and frigid land called the "land of ice and snow."

Honourable senators, we should not tolerate these losses. I strongly urge the federal government to move immediately to restore funding to the agricultural research station and, above all,

to reopen the Greenbank Farm. Soon, it will be too late, and our scientific expertise and world-class research facilities will be lost forever.

PAGES EXCHANGE PROGRAM WITH THE HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the pages from the House of Commons who are here with us this week on the exchange program.

With us today is Mathieu Sirois, from Regina, Saskatchewan. He is enrolled in the Faculty of Social Sciences at the University of Ottawa. He is doing a major in political science.

[Translation]

Valérie Simard is enrolled in the Faculty of Social Sciences at the University of Ottawa. Valérie is from Kapuskasing in Northern Ontario.

Valérie and Mathieu, I welcome you to the Senate. I hope that the few days you spend with us will be both interesting and instructive.

[English]

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, June 10, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

APPROPRIATION BILL NO. 2, 1999-2000

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-86, for granting to Her Majesty certain sums of money for the Public Service of Canada for the financial years ending March 31, 2000 and March 31, 2001.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Friday, June 11, 1999.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. David Tkachuk: Honourable senators, with leave of the Senate, I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at 1:30 p.m. tomorrow, Thursday, June 10, 1999, even though the Senate may then be sitting and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

INTERNATIONAL TRADE

AGREEMENT BETWEEN CANADA AND THE UNITED STATES
ON PERIODICALS—INTERPRETATION OF WORDING—
GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question is to the Leader of the Government. It is in regard to the agreement with the United States on periodicals and an exchange that we had yesterday as to whether or not the United States accepts the same definition of "substantial" as does Canada.

The Leader of the Government indicated that, to him, the Canadian definition of "substantial" meant "majority" and had been accepted by the Americans. However, I have found nothing so far in the documentation prepared by the United States regarding the agreement that indicates that the Canadian definition had been accepted by the Government of the United States.

Since yesterday, has the minister been able to find some documentation or written support on the Americans agreeing that the Canadian definition of "substantial" means "majority"?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have nothing in writing to indicate what the Leader of the Opposition has suggested.

I have made the usual inquiries and I have been told that the Americans knew how we would interpret it before the letters were signed. The U.S. did not use the word "majority" in the exchange of letters, as did Canada. That, as far as Canada is concerned, will be the operative word.

Senator Lynch-Staunton: Honourable senators, I am sorry to contradict the Leader of the Government, but Canada did not use the word "majority" in the letters; Canada used the word "substantial."

Canada wrote the letter to the United States trade representative, who, in turn, incorporated that term in her letter and said, "I agree with the following..." In other words, Canada prepared the letter and had the letter confirmed by the Americans and the word "substantial" is the one that appears in the letter.

Senator Graham: Honourable senators, perhaps I should clarify. The Honourable Senator Lynch-Staunton is absolutely correct. The word "majority" does not appear in the exchange of letters. I meant to say, for purposes of clarification, that the word "substantial" would be interpreted by Canadian authorities as "majority."

Senator Lynch-Staunton: Honourable senators, the question is not how Canadian authorities interpret the word "substantial," it is how the Americans will interpret the word "substantial."

I draw the minister's attention to the transcript of the briefing given by the Americans on May 26. I will quote from two or three excerpts and ask the Leader of the Government whether, after hearing this, it contradicts his optimistic interpretation.

The question to the senior trade official of the United States is as follows:

Is it not true that if a publication comes in and has 50 per cent of more Canadian content then, in fact, it will be treated like a Canadian magazine?

The senior trade official responded by saying:

I think you are dealing with what is known as a net benefits review, and the operative word there is a "substantial" level of original content.

• (1400)

Further on we see:

Q. Does the net benefit test include a majority content principle?

Senior trade official:

Its comparative word in the agreement is "substantial."

Q. "Substantial" does not mean "majority"?

Senior trade official:

"Substantial" means "substantial." That's what's in the agreement. When the Canadians write their regulations, we will see what words they use.

It is quite clear that the Americans are interpreting the word "substantial" to mean "substantial." The Canadians claim that the Americans have agreed that the word "substantial" means "majority." I have found nowhere in the American statements that the opposite is true, and I should like to know from where Senator Graham is getting that interpretation.

Senator Graham: Honourable senators, I would concede that it does not appear in writing, but Canadian authorities have made it quite clear that "substantial" means "majority."

Senator Lynch-Staunton: Canadian authorities have made it quite clear that "substantial" means "majority." That is fine.

If you go, then, to a June 4 press release by Canadian Heritage giving their version of the agreement, the following can be found on page 3:

The United States accepts the terms of the agreement which state that a net benefit review by Canada of new investments in the magazine industry will include "undertakings from foreign investors that result in a substantial level of original editorial content for the Canadian market contained in each periodical title."

That is the American view of "substantial."

The press release continues:

Canada will use guidelines that call for "a majority of original editorial content for the Canadian market in each issue of each periodical title," in the review of any new investment in the magazine industry.

This press release from Canadian Heritage acknowledges the inability to reach a meeting of minds on the interpretation of the word "substantial." The Americans say "substantial." The Canadians say "substantial" means "majority," and the Americans deny that, according to Canadian Heritage's own press release.

How can the Leader of the Government in the Senate claim that both countries agree that "substantial" means more than what it says, which is substantial?

Senator Graham: Honourable senators, that which is important is the understanding that Canadians have negotiated with their American counterparts. I concede that the word "majority" does not appear in the letters, but my understanding is that in negotiations the Canadians made clear to their American counterparts that "substantial" would mean "majority."

Senator Lynch-Staunton: Honourable senators, I will not prolong this. Yes, Canada agrees, Canada insists, and Canada

will fight to the death — hopefully, better than we did when we caved in to illegal trade sanctions — that "substantial" means "majority," but where can we find that the Americans agree that "substantial" means what Canadians say it means? Where is the documentation; where is the commitment? Where is it?

Silence is golden.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on a supplementary question, could the minister explain to this house the meaning of the paragraph on page 3 of the letter dated June 3 sent to Ambassador Barshefsky by Ambassador Chrétien? The pertinent paragraph reads:

Net benefits review will include undertakings from foreign investors that result in a substantial level of original editorial content for the Canadian market contained in each periodical title.

Would the minister explain the meaning of that paragraph in the treaty in percentage terms?

Senator Graham: Honourable senators, "net benefit" means net benefit for the Canadian publishing industry.

Senator Kinsella: The paragraph says "result in a substantial level of original editorial content." In percentage terms, what does "substantial level of original editorial content" mean?

Senator Graham: It means 50 per cent plus one.

AGRICULTURE

FARM CRISIS IN PRAIRIE PROVINCES— POSSIBILITY OF GOVERNMENT SUPPORT

Hon. Leonard J. Gustafson: Honourable senators, my question is directed to the Leader of the Government in the Senate and concerns the crisis in agriculture. Had honourable senators been in Regina on Saturday, they would have been faced with anger, disillusionment and desperation. The situation is very sad.

My question is not directly with regard to the Agriculture Income Disaster Assistance program or AIDA because we have already given the message that it is not working. The Minister of Agriculture for Saskatchewan has now said that they must change this program because it is not dealing with the problems of farmers, in Saskatchewan in particular, but also in parts of Alberta and Manitoba. Due to Saskatchewan's very low tax base and the fact that it has 65 per cent of the Canadian grain industry, the province of Saskatchewan cannot bear this burden. This problem must be dealt with by the federal government.

When the Standing Senate Committee on Agriculture and Forestry went to Europe, we heard in 25 meetings in four countries that the Europeans will stand behind their farmers in a big way. There is no question about that. They will receive \$79 billion from the European Union.

The U.S. has indicated clearly that they are standing with their farmers. Last October, they had already paid up to \$80,000 per farmer.

Our farmers have lost 41 per cent of their income on commodity price decreases alone. Saskatchewan cannot bear that burden, nor can parts of Manitoba and Alberta. Those two provinces are much more diversified and have no major problems in commodities with marketing boards. Those farmers are doing quite well. However, the grain farmers are in big trouble.

Will the government stand with the farmers or not? Will it make the commitment that it will stand with the farmers and deal with the situation or, at least, will it give the farmers some dignity by providing clear answers?

I do not wish to be repetitive. I have asked questions on this matter before, but we are facing a serious crisis as we move into the summer.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I recognize, sympathize with and appreciate the concerns that are regularly expressed by Senator Gustafson on a subject which is very dear to him. It is a cause of concern for colleagues from that part of the country in particular, though it should be of concern to everyone.

Unfortunately, as we learned from Senator Gustafson and others, producers of certain commodities are facing financial difficulty. The situation remains particularly serious in some provinces, most particularly in Western Canada. That is why the Agricultural Income Disaster Assistance program was designed to provide financial assistance to those farmers who are most in need.

All 10 provinces are participating in the AIDA program, which is providing up to \$1.5 billion in aid to farmers in need. I think it would be acknowledged that some provinces are finding it more successful than others.

• (1410)

Furthermore, the Minister of Agriculture and Agri-Food is working with his provincial counterparts to renew the framework agreement on the agricultural safety net. Like AIDA, safety net programs are designed to provide assistance whenever it is most needed.

Having said that, I have been in regular discussions with the Minister of Agriculture, and I know he recognizes that there are difficulties in some areas. The last time we had an exchange of this kind, I suggested that honourable senators urge the farmers most directly affected to fill out the required forms. I recognize that perhaps this in itself is not enough.

When Senator Gustafson asks if the Government of Canada will stand with the farmers, I would emphatically say "yes."

Senator Gustafson: I am glad to hear that.

SHORTCOMINGS IN AGRICULTURE INCOME DISASTER ASSISTANCE PROGRAM—GOVERNMENT POSITION

Hon. Leonard J. Gustafson: Honourable senators, with respect to the AIDA program, however, herein lies the problem, as told to me by a farmer and his son. The farmer had three good crops of canola, giving him a high average. He is probably one of the better-off farmers in the district, but he receives a payment. His son, who is just starting out, has had difficulties and did not raise canola. He happens to be in a position where he gets nothing.

Senator Roberge: He is a Conservative.

Senator Gustafson: I do not think he is. I think he is a Liberal.

In any event, the AIDA program is not working. The Minister of Agriculture in Saskatchewan, Mr. Upshall, indicated clearly this past week in a news release that it must be changed.

Given the fact that Parliament is preparing to adjourn for the summer recess, will the Leader of the Government in the Senate carry to the Minister of Agriculture, the Prime Minister and his cabinet the desperation of the situation? The Americans paid out \$50,000 to \$80,000 per farmer back in October. The farmers who are hurting in Saskatchewan cannot wait until next spring to do something about it. They will not be there. I can tell you firsthand that three farmers right around our farm are gone now, and there will be more of them.

Honourable senators, this is a crisis situation. Will the minister carry to the cabinet that it must move on the AIDA program and make quick, positive changes?

I talked today to the President of the Saskatchewan Association of Rural Municipalities. He had just come from a meeting with the Minister of Agriculture from Saskatchewan and said that something must be done because this is a desperate situation.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am fully in support of Senator Gustafson's comments. However, there is one thing that I should put on the record, namely that the state of agriculture in Canada, generally, is fundamentally sound.

Senator Gustafson: That is right, but the problem lies with the grain.

Senator Graham: The most recent farm income projection for 1999, I believe, was something of the order of \$6.7 billion for the entire sector. This represents, if I remember correctly, an 11 per cent increase over the previous five-year average.

When I discussed this matter with the Minister of Agriculture and Agri-Food, he pointed out that the experience of AIDA in 1998 would be used as a model they could build on and modify for 1999.

We must remember, honourable senators, that the Minister of Agriculture must get agreement from the 10 other provincial Ministers of Agriculture.

I shall be attending a cabinet committee meeting very shortly with the Minister of Agriculture and I shall again bring my honourable friend's representations directly and forcefully to his attention.

FARM CRISIS IN PRAIRIE PROVINCES—
POSSIBILITY OF GOVERNMENT SUPPORT

Hon. David Tkachuk: Honourable senators, we have heard this before. Senators Gustafson, Andreychuk, myself and other senators have raised this issue in the past.

In reading *The Ottawa Citizen* today, I saw a headline entitled "Chrétien calls brain drain a myth." It is just like Quebec in 1995 when separatism as a myth, and we almost lost the country. Apparently the brain drain is a myth and high taxes are a myth. We have not heard the Prime Minister speak about the farm issue.

A farmer in Saskatchewan does not receive employment insurance. A farmer in Saskatchewan lives under a socialist government that says no one can buy the land unless he or she lives in Saskatchewan, so the farmers cannot even sell the land. If someone from California wants to buy it and is not willing to move to Saskatchewan to farm it, they cannot buy it. If someone else owns the land and they move to Alberta, they have to sell it. That is what is happening in our province. The farmer sitting there with no cash income from the commodity he grows is restricted by the provincial government from selling his one asset, and the only people allowed to buy it are the people around him, who are just as poor.

What is happening here? The southeast corner of Saskatchewan is flooded. In Quebec we have an ice storm, and all hell breaks loose. Well, this is our ice storm; this is our flood; this is our disaster!

Honourable senators, we try to be nice in this chamber and say, "You have to help the farmers." The government leader responds, "I will bring this up in a cabinet meeting."

Mr. Minister, the message is that we cannot wait. If the honourable senator had been at the meeting on Saturday, he would have realized that no Liberal would dare show his or her face in that room, and did not.

Senator Gustafson: Correction — Senator Herb Sparrow was there.

Senator Tkachuk: Our friend Senator Sparrow was there. He is the only member of the Liberal caucus who understands this problem, and I congratulate him for it.

Some Hon. Senators: Hear, hear!

Senator Tkachuk: My deepest apology, Senator Sparrow. You know how much we like you.

We ask the Leader of the Government to not only talk to the cabinet, but to the Prime Minister of Canada, as the leader in this country. Perhaps he could visit Saskatchewan or talk to the farmers there, or talk to the municipalities and the provincial government in an effort to do something about this situation, because the Minister of Agriculture is not doing anything. The Minister of the Canadian Wheat Board, that Liberal from Regina, would not know a farm crisis if it sat on him. Do something about this!

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall be very happy to bring my honourable friend's representations to the attention of the Minister of Agriculture and the Prime Minister. To begin with, I suggest that perhaps the best way of dealing with this matter is to change the government in Saskatchewan.

Senator Lynch-Staunton: Shame!

Senator Kinsella: The Prime Minister should visit the area.

Hon. Mira Spivak: Honourable senators, I wish to remind you that a similar situation exists in Manitoba, perhaps not with the same government and not in the same context, but farmers in southwest Manitoba are suffering one of the worst natural disasters in 20 years. In May, rains were 400 per cent above average, after a wet fall and winter. Some 2 million acres are under water. In some areas, only 10 per cent of this year's crop is in the ground and farmers are now missing crop deadlines. The situation in southwest Manitoba is worse than what farmers in the Red River Valley overall suffered during the 1997 flood. Two years ago, the government provided \$26 million to help those farmers survive their losses. To date, it is offering nothing to the farmers in southwest Manitoba.

I am aware that the Minister of Agriculture plans to visit the province later this week. However, the question of this year's farm income over the income generated in 1998 is difficult. My honourable friend should look realistically at some of those figures as they relate to Manitoba and Saskatchewan and look at the grain situation. It is a far different picture.

Can the Leader of the Government in the Senate assure us that the government is prepared to help these farmers? Will the Minister of Agriculture have a solid assistance program to offer when he heads west?

• (1420)

I do not always agree with my colleague Senator Tkachuk. However, I must say that fine words will not help the situation. Where is the action? Where is the beef?

The Hon. the Speaker: Honourable senators, before the Honourable Senator Graham replies, I must advise the Senate that there are five minutes left in the Question Period.

Senator Graham: Honourable senators will be happy to learn that I do not have a five-minute answer to the question.

The Minister of Agriculture and Agri-Food is in almost daily consultation with his provincial counterparts, in particular those in Western Canada. He is certainly aware of the seriousness of the flooding in southwest Manitoba. The problem has also been brought to his attention by several honourable senators, in particular by my seat-mate the Deputy Leader of the Government.

The minister will be visiting that particular part of Manitoba this Friday. I cannot say that he will bring with him specific plans or proposals. I am sure that he will want to listen to the people and then present possible recommendations to the government and his cabinet colleagues.

Senator Spivak: Honourable senators, indeed, the Government of Manitoba has offered assistance. Is the Leader of the Government aware of any negotiations or any plans to match that assistance or to increase it? What sort of assistance will be given to farmers? It is quite clear from the numerous witnesses who have appeared before the Standing Senate Committee on Agriculture and Forestry that the AIDA program is not working and that this disaster is of an entirely different nature.

Can the minister give us any details that we can take back to some of the people who are asking us for assistance?

Senator Graham: Honourable senators, I cannot give any specific details. I have listened to the representations of Minister Axworthy and Secretary of State Duhamel on behalf of their fellow Manitobans. I have also listened to the Deputy Leader of the Government. I am sure that the Honourable Senator Spivak would agree that in the crisis with respect to flooding in Manitoba, the Government of Canada was very upfront and centre.

Senator Lynch-Staunton: Yes. It was before an election. You could see Chrétien with a sandbag.

Senator Graham: I hear Senator Lynch-Staunton mumbling that the assistance was provided at the time of an election. It is totally and absolutely unfair to bring politics into a debate about a time when Manitobans were suffering and the whole country, including our Armed Forces, went to their aid, and did so generously and courageously. The spirit of cooperation among Canadians was admired not only across the country but, indeed, around the world.

Senator Lynch-Staunton: Where is it now? The farmers are going bankrupt.

Hon. A. Raynell Andreychuk: Honourable senators, the Minister of Agriculture and Agri-Food will be visiting Manitoba. He had to be persuaded to visit Saskatchewan; and, at that, he will only be visiting a small corner of Saskatchewan by helicopter. Perhaps if he took a truck and tried to drive the roads, he would understand what the disaster is all about. Perhaps if he would spend more than two hours in Saskatchewan, he would begin to understand what the issues are.

Aid must be delivered immediately. There is not the financial flexibility in Saskatchewan that there is in both Manitoba and

Alberta. Can the minister assure us today that the government will put together some disaster relief for those who have been flooded? I have lived all my life in Saskatchewan, and I have never before seen a lake instead of my province.

Senator Kinsella: Answer the question.

Senator Graham: Senator Kinsella says, "Answer the question."

Senator Kinsella: Where is the Prime Minister today, is he golfing or skiing?

Senator Corbin: Be quiet.

Senator Graham: I will yield the floor to Senator Kinsella if he wishes to continue to mumble or ask a question. In the meantime, I will try to address the question asked by Senator Andreychuk.

The Minister of Agriculture is visiting Manitoba and will be visiting Saskatchewan. He is in regular contact with the authorities in those provinces and is doing his utmost to provide assistance and relief in the most appropriate way, that is, the Canadian way.

Senator Andreychuk: Honourable senators, how quickly can we get it? The farmers in Europe have been promised continued subsidies for three years. We have all heard Senator Gustafson talk about there being immediate subsidies in the United States. The farmers in Saskatchewan about whom I am most concerned are those who operate the family farms which, surprisingly, still exist. They cannot weather this summer.

We have lost 15,000 farmers already. They continue to leave daily. It is a crisis that cannot wait until next week or the week after. Can the minister give us any assurance that there will be some immediate disaster relief for those who have been flooded? Will the AIDA program be changed?

I am not an accountant. However, I have listened to representatives of Saskatchewan accountants who say that it is a nightmare to try to fill out the forms. The cost is phenomenally high. If a farmer has a net income of \$300 per year and is asked by his accountant to pay \$600 to fill out the forms, what sense does that make?

Will there be some assurance today that there will be immediate disaster relief for the flooding and that the AIDA program will be adjusted? It may fit nine provinces. It does not fit Saskatchewan. It needs changing immediately.

Senator Graham: Honourable senators, I will be seeing the Minister of Agriculture at 3:30 this afternoon. I will bring all the representations that have been made today directly to his attention.

Senator Lynch-Staunton: Is that all you do?

Hon. Herbert O. Sparrow: Honourable senators —

The Hon. the Speaker: Honourable senators, I am sorry, but the time allotted for Question Period has expired.

Senator Lynch-Staunton: Leave is granted.

The Hon. the Speaker: Delayed answers.

Senator Kinsella: Order, order!

The Hon. the Speaker: Orders of the Day.

Senator Lynch-Staunton: Shut out, which is typical when one of their members asks a question.

Senator Graham: Honourable senators, may we have leave to invite Senator Sparrow to ask his question?

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: I must warn honourable senators that I have other names on the list. Is it your wish, honourable senators, that I recognize those other senators as well?

Senator Lynch-Staunton: Senator Sparrow only.

Senator Prud'homme: Since he is the dean of the Senate, we should extend that courtesy to him.

The Hon. the Speaker: Honourable senators, do I understand correctly that you wish leave only for Senator Sparrow to ask his question?

Hon. Senators: Yes.

The Hon. the Speaker: The Honourable Senator Sparrow.

Senator Sparrow: Honourable senators, perhaps when the Leader of the Government in the Senate meets with the Minister of Agriculture and other ministers this afternoon he will, as he has agreed to do, bring to them the concern of the senators who have already spoken to this serious situation.

Action must be taken to save a great part of the agricultural industry in Saskatchewan, and it must be taken now.

The Leader of the Government in the Senate can tell the ministers with whom he will meet this afternoon that if they delay in taking action now and wait for the next year, which appears to be what is happening, the farmers needing help will be 20 per cent or 30 per cent fewer than those they could help now. That is crucial. We cannot afford to lose those farmers, as Senator Andreychuk has already pointed out.

• (1430)

Will the minister please take the message that any further delay will result in the loss of another 20 per cent or 30 per cent of our agricultural community?

Senator Lynch-Staunton: Good point.

Some Hon. Senators: Hear, hear!

Senator Graham: Honourable senators, I will be pleased to bring to the attention of the Minister of Agriculture and my other cabinet colleagues the representations from the Honourable Senator Sparrow, who was at one time Chairman of our Agriculture Committee. As a matter of fact, he was awarded an honorary Doctor of Science degree from McGill University for his work on the widely known Senate publication called "Soil at Risk."

It is rather interesting that we should be extending the Question Period today because, when we started the afternoon, under "Senators' Statements," Senator Carstairs' first line was to recognize a one hundred and fiftieth anniversary on May 21. I thought for a moment that she was going to talk about me because my birthday was on May 21, as it was for the Convent of the Sacred Heart in Halifax. Sometimes I feel that it should have been my one hundred and fiftieth birthday.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in our gallery today of a distinguished group of visitors. They are a delegation from the Republic of Yemen, led by His Excellency Abdul Aziz Abdul Ghani, Chairman of the Consultative Council of the Republic of Yemen.

Accompanying the delegation is His Excellency Mohamed Hazza Mohamed, Ambassador of the Republic of Yemen to Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: On behalf of all honourable senators, I wish you welcome to the Senate of Canada.

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999;

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended:

- (a) on pages 10 to 12, by deleting Part 3; and
- (b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

Hon. Donald H. Oliver: Honourable senators, on campuses across the country in the next few weeks, Canada's best and brightest will be graduating from universities, community colleges, high schools and trade schools. These graduates will be forced to make several important choices and decisions regarding their future. Unfortunately for Canada, some of these graduates will decide to leave and pursue career opportunities in the United States.

For many, as is sadly the case with too many professionals, taxes will play a role in that choice. Sadly, this bill does not begin to address the major tax gap between Canada and the United States.

Honourable senators, although the issue of emigration has been much debated in Canada for decades, there is growing evidence that the brain drain has, in fact, re-emerged as a serious problem in our country, and that it could affect our future social and economic development.

Canadian migration to the United States is not a new occurrence. It has a very long history. Mr. Don Devortz of Simon Fraser University said, in the January 19, 1999 *Fraser Forum*:

...there has been movement of Canadians to the United States and Americans to Canada for centuries.

Honourable senators, historically, the reasons vary from avoiding persecution to highly skilled Canadians moving to the United States simply to work. A study in the 1950s described this movement as the "brain drain."

There are many reasons why Canadians are deciding to work south of the border. Perhaps the most influential factor is higher taxation in Canada. Taxation levels are of particular concern. The migration of highly skilled Canadian workers has been a concern for companies operating in the knowledge-based economy of tomorrow, especially high-tech companies like Northern Telecom Ltd., Nortel and Newbridge.

Because of high taxation, the chairman of Northern Telecom Ltd. recently pointed out that the company might have to move to the United States because of the loss of 300 to 500 engineers a year who are seeking employment south of the border.

In the *National Post* on March 12 of this year, Jonathan Chevreau said:

...for every American coming to work to Canada, six Canadians head south.

Honourable senators, Nortel CEO John Roth also said that he will move Nortel to the United States if Canada does not offer his

company tax breaks that he feels it needs in order to compete internationally. Mr. Roth argues that if an engineer moves from Ontario to Texas and is making the same gross salary, this employee ends up, after taxes, with \$25,000 more in his or her pocket. This does not take into account the value of our dollar, or the fact that United States salaries are, on average, more than 60 per cent higher than Canadian ones.

Government policies do not persuade people to stay in Canada.

David Perry of the Canadian Tax Foundation says a \$100,000 salary puts an average U.S. taxpayer in the 25 per cent tax bracket versus the 50 per cent bracket for the same money earned in Canada.

Other companies that are suffering are Canada's struggling National Hockey League teams. These teams have petitioned against property and capital taxes in Canada. Rod Bryden, the owner of the Ottawa Senators, says that he may still have to sell the team to United States buyers if Canadian governments do not offer tax cuts to the Canadian franchises.

The Ottawa Senators, it is said, pay more in taxes than all the American NHL teams combined — this in spite of the fact that they are losing money. Governments at all levels are raising taxes and are not sensitive to profits.

Since the North American Free Trade Agreement, it is much easier for professionals to obtain working visas to the United States.

Honourable senators, if we are to facilitate the movement of Canadians to the United States, then, in turn, we must remain competitive by offering similar benefits, salaries and income tax rates.

We must also invest in research, since we lose many of our highly skilled graduates to the United States because the American government and industry are willing to fund research projects at a higher level than our government or industry.

The brain drain is a problem for most of the provinces in Canada, although, for Atlantic Canada, the brain drain has been not only to the United States but also to Central and Western Canada. Quebec was somewhat protected from the brain drain because of the language barrier but, nonetheless, Quebec is losing some of its professionals and highly skilled workers, such as surgeons and researchers, to the United States.

Some people claim that the brain drain is an exaggeration. For example, a study conducted by economists for the Bank of Montreal indicated that the net emigration levels from Canada to the United States have increased only modestly in recent years. That same study also suggests that emigration has been less severe in the 1990s than in the 1950s and 1960s. The bank implies that the flow to the United States is based on non-economic factors.

The Prime Minister and the Minister of Finance also say that there is no proof of a brain drain. Senator Tkachuk quoted a statement made by the Prime Minister earlier today. However, Mr. Chrétien, Mr. Martin and the economists at the Bank of Montreal ignore an important reality. It is not as simple as

comparing the number of Canadians we lose to the number of immigrants we gain. One important element of the debate over whether or not there is a brain drain is that we must not pay attention to the number of Canadians we lose and the number of immigrants we gain. Instead, we must focus on the quality, not the quantity, of Canadians that we are losing. We are losing highly skilled, trained individuals, and we are not gaining these same types of individuals. Engineers, surgeons, researchers, CEOs: These are the people who are leaving, and the cost of replacing them is extremely high.

Mr. Don Devortz of Simon Fraser University, in *The Ottawa Citizen* on April 17, estimated that the churning costs of losing more than 40,000 highly educated Canadians, and then replacing them with people from foreign countries, has been about \$11.8 billion to Canada over the past 10 years. According to Mr. Devortz's research, the Canadian taxpayer is the principal loser. In the January *Fraser Forum*, he also said that the taxpayer:

...subsidizes the highly skilled during their education period in Canada under the implicit contract that graduates remain in Canada to pay for the next generation.

Honourable senators, every time a highly skilled Canadian leaves for the United States, we, as taxpayers, suffer.

• (1440)

There is growing evidence of a brain drain and there are many factors contributing to it, including lower taxes, higher salaries, better funding for research, a stronger dollar and other enticing offers that entice Canadians to accept job offers and move their families to the United States.

This could be detrimental to the future of our economic growth. McGill University economist Reuven Brenner said in the *National Post* on April 3:

The answer is...simple: Labour is cheap because it is less skilled, less disciplined, or less motivated — in part because of taxes, and in part because the vital few have left. The currency is weak because investors, seeing the departure of the vital few, then shun Canadian dollars.

Honourable senators, it is important that governments in this country create the social and economic climates that will keep our best and brightest at home.

In conclusion, I wish to take a minute to reflect on the graduation ceremonies I mentioned at the beginning of my remarks. Over the next few weeks, people from across Canada will be gathering to celebrate the scholastic achievements of their family and friends. For too many Canadians, that moment is bittersweet because their newly minted graduates will be pursuing a new life south of the border. Taxes, which are not adequately addressed in this bill, will likely be a major factor in this decision.

Hon. Raymond J. Perrault: Honourable senators, the information brought to us by Senator Oliver on the subject of the brain drain, real or alleged, is very relevant.

One of the saddest sights is the line-up of graduates and recruiters at Canadian universities just after graduation day. There is a loss to this nation in that process of leaving Canada for employment elsewhere. I think Senator Oliver and others may agree that a person who has enjoyed the blessings of the Canadian educational system has some responsibility to use that training on behalf of this nation.

There is an immense responsibility, for example, on those who study medicine. Approximately \$1.5 million of public investment resides in every graduate of a medical school. It may be higher than that. In fact, I think it is closer to \$2 million. It is sad that some of these graduates blithely skip off to some location where working conditions are better and incomes are higher.

A few years ago, I was contacted by a young man from another country who was studying in Canada. His area of study was the establishment of water purification methods and techniques. This young man was sent by the taxpayers of his impoverished country to come to Canada. He studied in Canada for three years. Then he approached me and a number of others for help to stay in Canada. Should his request have been granted, the investment in him by his impoverished nation would have been wasted. He sought support to stay in Canada, and yet he had received more from his poor country in order to obtain an education here.

I told him that his first responsibility was to go back from whence he came and to give back some of the advantages and learning that had been extended to him by his nation's taxpayers. Certainly, only a relative few of his fellow countrymen had been able to avail themselves of the type of water purification training that he had received in Canada. Needless to say, he did not get any help from me, and I do not think a person in that position should get help from those of us in Canada.

Yes, I think there is a brain drain of some dimension, even though there are denials. We read about people from our communities taking positions in the United States. I suppose that is what happens in a free society. There is an interchange across the border. Some Americans come to Canada; it is true. Yet I, for one, resent the fact that many of our young people who are well educated, many of them in the computer sciences — perhaps the opportunities do not exist as they do in some other countries — prefer to sign on with a high-paying American corporation on graduation day, and that is the last that we see of them.

Perhaps we should have some sort of rule. Senator Oliver made reference to the possibility of some way of paying back the public investment in a well-trained Canadian graduate. There may be merit in that suggestion. Perhaps we should study it. One of the Senate committees could take this on as a project, namely: the brain drain, real or imagined. Let us put out a call for witnesses and find out what is going on out there. It is of great importance to the nation.

Hon. Erminie J. Cohen: Honourable senators, I rise today to speak at third reading of Bill C-71. As we are all aware, this legislation implements some of the proposals contained in the February 1999 budget, along with several other recently announced measures. Among them are changes to the Canada Health and Social Transfer, the Canada Child Tax Benefit, the National Child Benefit and the Goods and Services Tax Credit.

These are all tax tools designed to assist low-income Canadians. They are becoming increasingly important, given the fact that 79,000 more Canadians are living in poverty today than when the current government was elected. They are especially important for poor families with children when we consider that 26.7 per cent of poor Canadians are under the age of 18.

As you will recall, the Canada Health and Social Transfer, which replaced the Canada Assistance Plan and Established Programs Financing Plan, includes funding for provincially administered social assistance programs. The Canada Child Tax Benefit provides income-tested benefits to low- and modest-income families. The National Child Benefit is a supplement to the Canada Child Tax Benefit that is paid to low-income families, although it is clawed back by the provinces, with the exception of New Brunswick and Newfoundland, from families receiving social assistance.

The Goods and Services Tax Credit was established to ensure that low- and modest-income Canadians did not pay any more tax than they did before the GST replaced the former federal sales tax.

Some of the measures contained in Bill C-71 will make modest improvements to these federal programs. I must stress the word "modest." I do not intend today to speak about what Bill C-71 contains. Rather, I will talk about what it does not contain.

Simply put, honourable senators, Bill C-71 represents a missed opportunity. The current tax system works against good social policy in Canada, and the government has had every opportunity to make it work better. However, the legislation before us makes it clear that the government has chosen not to do so. Canadian social policy remains shackled by a tax system that seems to dim the hopes of poor Canadians for a brighter future at every turn.

I would frame my remarks in the context of my current position as co-chair of the PC Caucus Task Force on Poverty. We have been travelling across the country from St. John's, Newfoundland to Vancouver, British Columbia, listening to the views, experiences and recommendations of Canadians who are living in poverty and those of various groups who work with them. Time and time again we have heard their pain, their unhappiness and their heartbreak as they relate their never-ending struggles just to survive, to be able simply to feed their families and put a decent roof over their heads — things that we who are lucky enough are able to take for granted.

We have listened to the incredible frustration they have expressed at how the current tax system not only contributes to the situation of poverty in which many Canadians find themselves but also seems to be doing its darndest to keep them in it. The people from whom we have been hearing include not only Canadians who are on social assistance but also those who are among the ranks of the working poor. I will cite a couple of instances of the government's failure in Bill C-71 to address the taxation-related problems faced by members of this group.

For example, the National Child Benefit, which is targeted in Bill C-71, aims to address the so-called "poverty trap" problem at very low levels of income. However, the problem is as serious as ever as incomes approach \$30,000. Keep in mind that, of course, \$30,000 is not a great sum upon which to raise a family of four or more. The problem is that the combination of income taxes, CPP premiums and EI contributions, together with the phase-out of GST credit, Canada Child Tax, National Child Benefits and provincial tax credits, can result in the working poor losing more than \$6 out of every \$10 of additional income. The National Child Benefit needs to be better integrated into the income tax system. Bill C-71 fails to do this.

• (1450)

More generally, under the current system, each additional dollar of income over \$7,190 is taxable. This means that minimum wage workers, who barely have enough to live on as it is, must pay taxes on the often pitiable amount of money that they earn through many long hours of labour. This is shameful. In fact, it is nothing short of an embarrassment for a country as rich as Canada to "nickel and dime" our working poor people to death.

In my province of New Brunswick, for example, once you cross that taxation threshold, you must pay a total of \$31.64 in federal and provincial income taxes and payroll taxes for every additional \$100 that you earn. That includes \$17 in federal taxes and \$10.20 in provincial taxes. It also includes, net of tax credits, \$1.86 in Employment Insurance premiums, and \$2.58 in Canada Pension Plan contributions. Honourable senators, that is almost one-third of taxable income above \$7,190. These charges are being levied on the Canadians who are least able to afford them — people who are often forced to go to food banks because they cannot afford to shop at the grocery store.

Honourable senators, I urge the government to take a long, hard look at how our current tax system treats people who are living in poverty, whether working or not. One step towards this goal might be to raise the threshold at which incomes become taxable to a much more realistic amount.

The government should also ensure that its tax credits are properly integrated into a system which currently acts as a disincentive to employment, and denies poor Canadians the hand up that they so desperately need now more than ever.

On motion of Senator Di Nino, debate adjourned.

PRIVILEGES, STANDING RULES AND ORDERS

CONSIDERATION OF ELEVENTH AND NINTH REPORTS OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Fitzpatrick, for the adoption of the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders (restructuring of Senate committees) presented in the Senate on June 2, 1999.—(Honourable Senator *Prud'homme, P.C.*)

And on the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Ferretti Barth, for the adoption of the ninth report of the Standing Committee on Privileges, Standing Rules and Orders (independent Senators) presented in the Senate on March 10, 1999.—(Honourable Senator *Kinsella*)

Hon. Douglas Roche: Honourable senators, I wish to address the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders together with the ninth report of the same committee. Honourable senators will be glad to know that even though I will speak about two reports, I will not speak for twice as long.

I wish to make it clear that, as an independent senator relatively newly arrived, I pay my full respects not only to all senators but also to the Senate and its traditions and its rules. I should also like to make it clear that the heart, the core, the kernel of my address is summed up in my desire to protect the rights of independent senators.

I seek to look ahead to the composition of the Senate as it may unfold in the years ahead, just as I look back at the composition of the Senate and the role of independent senators in the years gone by. In order to do that, I must first respectfully draw to the attention of honourable senators that I find a discrepancy between the ninth report and the eleventh report. That is why I wish to address them both at the same time.

The ninth report, tabled on March 10 of this year, makes it clear that it is talking about independent senators. The committee recommends that independent senators be appointed to sit as full members on Senate committees under the following conditions. I was waiting for something to happen with that report, which I support, when I suddenly saw tabled on June 2, a few days ago, the eleventh report which has suddenly excised the word “independent.”

The report recommends that the rules be amended by adding two additional members to any standing committee, provided that the vote of the committee of selection on the addition is unanimous. I find it a very strange potential rule to apply to certain members unanimity in their selection that is not applied

to other members. It is this discrepancy that I am respectfully addressing.

Some may say that I have a vested interest in this speech. I do not deny that. I put my cards on the table. However, I hope that it will be understood that, in considering myself, I am also considering the rights of all senators, and that there not be any discrepancy among any senators in this chamber. I do not seek to have any more rights than any other senator, but I also hope that you will understand that I cannot be content with having fewer rights than other senators.

I said I would spend a moment looking at the history of this subject. After all, honourable senators, between 1867 and 1999, 814 persons have been appointed to the Senate. Of those, 11 have identified themselves as independent. Inasmuch as five of those 11 are sitting in the Senate today, I think this is a relevant issue.

For a long time, independent senators were appointed to sit on Senate committees, and have even chaired committees on occasion. For example, Senator Hartland Molson — well known and highly respected in this chamber — was the acting chairman of the Standing Senate Committee on Transport and Communications in 1958 and 1961. Our present colleague Senator Pitfield, who is also an independent, was chairman of a Special Senate Committee on the Canadian Security Intelligence Service in 1983. The precedent is thus very clearly established for independent senators to be full members of standing Senate committees.

• (1500)

Not only that, but my search of the records — and I will stand corrected if someone shows me that I am wrong — I cannot find in the *Rules of the Senate of Canada* any prohibition on independent senators being appointed to committees. It is up to the Committee of Selection to determine who will be on which committee.

A survey was taken in 1994 of the senators of the day, concerning whether there should be independent senators appointed. You will see that something happened between the late 1980s and 1994. I believe I know what happened, but I do not wish to go into that. I do not imagine that many senators would relish my going down that avenue now. That “something” which happened resulted in some sort of arrangement whereby independent senators were deprived of full membership on committees. I will not talk about that. I will only talk about the present day, and recognize that, in a survey done in 1994, senators were asked whether independent senators should be permitted to be members of Senate committees. The result showed that 87.1 per cent of the respondents in the Senate thought that independent senators should be able to sit on committees, and 9.7 per cent felt that they should not.

Some senators have made the observation that unless we restore in the Senate full participation of independent senators as such, they end up being second-class members of this chamber. How can we have rules stating that some members of the Senate can be members of committees and other members cannot? Are we not all appointed by the same constitutional process?

I would say, in drawing the attention of the Senate to the status of independent senators, that this is not happenstance. This is not some whim whereby some senator comes in here and says that he or she chooses to be independent because they do not wish to be this or that. When I was appointed, an official document was issued by the Prime Minister's Office, under the date of September 17, 1998, called "Appointments to the Senate." One sentence in that document from the Prime Minister stated that Mr. Roche will sit as an "Independent" senator; independent with a capital "I." The status is recognized in the appointment process. I believe, without belabouring this argument too much, that while it has a certain complexity to it, we must stand on the principle of full rights for independent senators.

I sought those rights on November 5, 1998, when I wrote respectfully to the Honourable Léonce Mercier, the whip of the Liberal Party, and I sent a copy of the letter to Senator Shirley Maheu, chairperson of the Standing Committee on Privileges, Standing Rules and Orders. I also sent a copy of the letter to the deputy chairperson, Senator Brenda Roberston. In that letter I applied for membership on two committees. Thus, from an early moment following my entry into the Senate, I sought to exercise what I thought was my right, not necessarily to be appointed to the committee of my choice but to be appointed to committees. It is only now, when I see the eleventh and ninth reports in contradistinction to each other, that I rise to bring this matter to the attention of the Senate.

Furthermore, yesterday something interesting happened. In response to a certain event, or let us call it a pseudo event, that was attempted to be held on Parliament Hill — and I do not imagine many Canadians were impressed with this event that had to do with the future of the Senate — the Senate itself issued a document called "Key Messages and Fact Sheets." In other words, the Senate got out the message of what this institution has been doing, and is doing, and it is a good message. You have probably all seen it; I certainly commend it to you. I commend those who have written the document and who did the excellent research that it contains.

In this document, in which the Senate is drawing to the attention of the Canadian people the value of the Senate — that is why it ought to be supported by the Canadian public — we find that Senate committees are exploring topics and issues that often do not arise in other legislatures and, as it states:

...examine questions of public policy in more depth with greater freedom from partisan political dynamics.

Honourable senators, the Senate is bragging — and I say more power to them — for having committees that are doing in-depth work and that are free from partisan political dynamics in the one breath and, in the other breath, denying independent senators full membership on committees.

I believe that this is an anomaly. I probably have said enough. I should like to offer, respectfully, a way out of this dilemma. I will make it as a suggestion, rather than attempting to move a motion; that is, depending on what happens after the following

two sentences, and then I will determine what my future course will be.

I should like to suggest that the way out of this dilemma is for most of the eleventh report to be accepted. That is to say, the parts which Senator Maheu drew to the attention of the Senate, namely, the composition of two new committees, on defence and on human rights, and then the change in the number of members of committees, and so on. That part of the eleventh report, as far as I am concerned, is very commendable.

However, when we get to section 3 of the eleventh report, I suggest that it be dropped, and that section 3 be replaced by the principal findings of the ninth report. Thus, having dropped the section of the eleventh report, it would be replaced by the words, "Your committee recommends that the Senate rules be amended so that..."

Then picking up the language from the ninth report:

1. That independent Senators would apply to the Selection Committee;
2. That the Selection Committee would be authorized to nominate independent Senators to Committees. Where the Selection Committee nominates an independent Senator to a Committee, it will also nominate one additional non-independent Senator to that Committee, thereby increasing the normal size of that Committee by two members;
3. That no independent Senator could sit on more than two committees;
4. That only one independent Senator would be allowed per committee.

Honourable senators, you will note that I made that in the form of a suggestion because I am hesitant for the moment, anyway, to offer an amendment. I would hope that the suggestion that I have made, in good faith and in respect of the full composition of the Senate, would be met with some agreement, and certainly in a manner that does not delay this process.

I feel it can be said, without putting too fine a point on it, that this matter has dragged on for quite a while. Let us get this thing settled and finished before the Senate rises. When we return in the fall, all senators, irrespective of where they sit in this house, will then realize that they are here and that they are participating, not on sufferance, but on principle.

• (1510)

Hon. Edward M. Lawson: Honourable senators, I wish to add a word or two to the research the Honourable Senator Roche has done. Frankly, I do not know what the issue is all about.

When I came here in 1970, Senator Molson served on a committee and served as chairman of a committee. I was invited to serve on a number of committees and did so for about 20 years. Who changed the rules? Who took away the rights we had all those years? When did it change?

An Hon. Senator: The Liberals.

Senator Lawson: Many senators will recall the infamous debate about the GST. The government of the day, the Conservatives, gave the opposition the right to put forward eight amendments. There were two independents sitting at that time, Senator Stan Waters and myself. We said, "Wait a minute, you have overlooked the independents. We must have similar rights."

With the support of the then opposition Liberal Party, we had a mini-strike. We finally settled with the Speaker and whoever else had the authority, which flowed from Prime Minister Mulroney. They agreed that the two independents would have the right to put forward one amendment, which we did.

Honourable senators, I am not aware that my rights have been taken away. I am not serving on a committee by choice because I was not able to do so, but I had the opportunity to serve on any committee in which I wished to participate. If there is need for legislation to give me back my rights, the question is, who took my rights away?

Hon. John Lynch-Staunton (Leader of the Opposition): Exactly. Does Senator Lawson not feel offended because he is an independent senator and is being singled out in the proposed rules and being given a special status?

Senator Lawson: I am absolutely offended because I see no need for it. My rights are there. I was not aware that someone took them away from me. If I find out, I will hold them accountable. We are not Liberal senators, Conservative senators or independent senators. We are all senators with equal rights.

Senator Corbin: Absolutely.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I must say that I found the Honourable Douglas Roche's speech extremely interesting.

[English]

Honourable senators, I have been extremely fair and patient. I have tried everything for six years and two days. I have not threatened or used blackmail. I have not used the rules which state that once you are a member, you could come the following week. All I needed to do was say "no," and that would be it, we would be back the following week. However, I am intelligent enough to know that to have the entire club against you forever is not a good thing. There is also a cost involved with respect to calling the Senate back just because you were full of anger, so I have held my anger.

I tried to cajole, but it did not work. I tried to smile, but it did not work. I tried to yell, but it did not work. Now, I see my honourable friends Senator Lawson, Senator Roche and Senator Wilson reacting. They, of course, know our friend Senator Pitfield. I do not dare speak for every independent senator, but here we have five senators with different characters, styles and

know-how. This situation is becoming, to be frank, totally ridiculous. Senator Roche has pointed out exactly how ridiculous it could be made across Canada.

Ninety per cent of our discussion yesterday was about the great work we do in committee. I have volunteered to sit on various committees, and I have been turned down.

I will not get personal by pointing fingers and saying this senator or that senator never attends committee meetings. I will leave that to the commoners in the other chamber. I think we should be gracious with each other.

Let me remind honourable senators of one thing: I attended — and I reported this to Senator Roche — the meeting that led to the ninth report. Do we live in a democracy or not? Senator Maheu, who is extremely fair, let the discussion at that meeting go on and on. Other senators may not know, but there was a vote at that meeting. The vote was unanimous, less one. That means Conservatives and Liberals must have voted in favour of the report, less one. I did not vote because I am not a member of the committee. I am a half of I do not know what, but not for long. We have limits.

Honourable senators, you have some good soldiers here ready to defend the integrity of the Senate. You have people who are ready to go right across Canada to fight for the Senate. When someone attacks the Senate, they attack my country. Canadians will decide what to do with the Senate, not members of the other chamber, for whatever reason. We can defend ourselves, but do not eliminate those of us who are ready. Besides, I will not go on bended knee to beg. Independent senators have a right to be on committee.

Some people say we are all senators. I heard that argument and I reflected upon it. However, I double checked, and my appointment stated "independent senator."

I am in favour of the ninth report. I think it is complete, and the ultimate place to discuss this report is on the floor of this chamber. I suggest we vote on the report and not drag our feet forever.

Certain suggestions have been brought forward by Senator Roche, with which I am sure Senator Lawson agrees. I do not know if Senator Wilson agrees with these suggestions, but I imagine she does. We could accept both reports today and stop working. We could adopt the ninth report as is, a report voted on by the Rules Committee, with only one dissenting vote. We could then adopt the eleventh report of the Rules Committee, with the exception of the third part at the end. It is an addition that was thrown in at the end.

Is that not the essence of an open discussion? Is that not a fair appeal to all colleagues?

I cannot speak for other senators, who each have their own way of stating emotions publicly. You have known mine for six years and two days. I am tired of being a volunteer.

Honourable senators know my love of the issues dealt with by the Foreign Affairs Committee. I do not know if I will be a member of that committee, but they will go to Europe next week for two weeks.

Honourable senators, the Speaker has been clear. He says that every senator has rights. Therefore, it would be my right to go to Europe. I could decide in a few minutes that this trip sounds interesting and pay for all of my expenses.

• (1520)

The Clerk of the Senate says that we may attend any committee, any private meeting or *in camera* meeting. Therefore I can attend. Well, enough. I am not that stupid to spend that kind of money, but I could, just on principle. I could say, "Mr. Clerk, add my name to the list and add room for one more, and I will pay."

You do not want to push in that way. I think I have been fair. I enjoy listening to another point of view. It was probably put better to you in the English way by Senator Roche. He is different than me. He puts it in a sweeter way, while I put more passion into it: Is that not Canada at its best? We combine in a surprising way. You may think that we decided that *in camera*.

I am happy for the contribution of Senator Lawson. We did not speak about that.

There is no coup against the majority of the Senate. Please, do not adjourn. Take a decision today in the good spirit of people who are trusting their colleagues, their friends, as equal partners, ready to abide by the rules by accepting, therefore, the ninth report as is, and accepting the eleventh report without the third section that refers to independent senators. Then we will see how it works. If it does not work, senators, we will come back. You can be the first on either side to come back and say that it does not work, but, first, let us try it in a good Canadian spirit where we give and take. I give a lot, you give a little, or we can give equally. That is what Canada is all about. That is what Canada was made for. That is what you should decide today.

Hon. Lois M. Wilson: Honourable senators, I support Senator Roche in his comments. When I was appointed to the Senate by the Prime Minister, he realized that I was not a member of either the Conservative or the Liberal Party; he still persisted in appointing me. I assumed that that was a valid appointment, and I still assume so.

When I came on board, I was told that independents could not be members of committees and could not vote on committees. When I asked why, no reason was given. My own constituents are puzzled by this to this day. If I ever find a reason, I will tell them. I was interested in Senator Lawson's background on that one.

The ninth report is more clear because it does acknowledge that we are independent senators. We will not go away. It does suggest some helpful ways to incorporate us into the system.

I understand the eleventh report resulted from a compromise between the two parties. I have never been able to find out the nature of that compromise. This report is not as clear. I do not agree that I should be the subject of a necessary, unanimous consent before I may sit on a committee, as if I am unworthy.

Senator Lawson: Honourable senators, I move the adjournment of the debate.

Senator Prud'homme: Honourable senators, I see some senators smiling with pleasure. May I make a special call to Senator Lawson that we dispose of this matter today?

Senator Kinsella: There is no debate on an adjournment motion.

The Hon. the Speaker: Honourable senators, the adjournment can be refused but it cannot be debated.

It is moved by the Honourable Senator Lawson, seconded by Honourable Senator Wilson, that further debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Would all those in favour of the adjournment motion will please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would all those opposed to the adjournment motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Speaker: We will have a standing vote. The whips advise me that there will be a five-minute bell. The vote, therefore, will take place at 4:30 p.m.

Hon. Eymard G. Corbin: That is unfair, very unfair.

Senator Kinsella: Follow the rules.

Senator Corbin: A five-minute bell is undemocratic. Every senator has the right to come to this place and vote.

• (1530)

The Hon. the Speaker: Call in the senators.

Motion agreed to and debate adjourned on the following division:

YEAS	
THE HONOURABLE SENATORS	
Adams	Kirby
Andreychuk	Kroft
Austin	Lawson
Beaudoin	Lewis
Bolduc	Losier-Cool
Bryden	Lynch-Staunton
Buchanan	Maloney
Callbeck	Meighen
Carstairs	Mercier
Cochrane	Milne
Cohen	Moore
Comeau	Oliver
Cook	Pépin
Cools	Perrault
De Bané	Poulin
DeWare	Poy
Di Nino	Roberge
Doody	Robertson
Fairbairn	Robichaud <i>(L'Acadie-Acadia)</i>
Ferretti Barth	Robichaud <i>(Saint-Louis-de-Kent)</i>
Forrestall	Rompkey
Grafstein	Rossiter
Graham	St. Germain
Grimard	Stewart
Gustafson	Stollery
Hervieux-Payette	Watt
Joyal	Whelan
Kelleher	Wilson—58
NAYS	
THE HONOURABLE SENATORS	
Angus	Maheu
Eyton	Prud'homme
Johnson	Roche
LeBreton	Simard—8

ABSTENTIONS

THE HONOURABLE SENATORS

Corbin
Taylor—2

[Translation]

SCRUTINY OF REGULATIONS

FIFTH REPORT OF STANDING JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Joint Committee for the Scrutiny of Regulations (*budget*), presented in the Senate on May 13, 1999.—(Honourable Senator Carstairs).

Hon. Céline Hervieux-Payette: Honourable senators, I move that the report be adopted.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, because several Senate committees have planned to sit, there is agreement that all other items should remain on the Order Paper in the order in which they presently appear.

The Hon. the Speaker: Is it agreed, honourable senators, that all items presently on the Order Paper will stand, but remain in the same order in which they appear on the Order Paper?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow, Thursday, June 10, 1999, at 1:30 p.m.

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Debates of the Senate

1st SESSION

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36th PARLIAMENT

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VOLUME 137

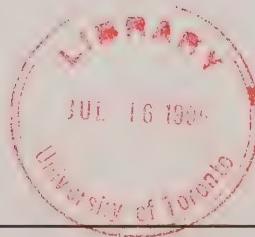
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NUMBER 148

OFFICIAL REPORT
(HANSARD)

Thursday, June 10, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTION

The Hon. the Speaker: Honourable senators, I should like to make a correction to the *Debates of the Senate* of yesterday. According to the Debates, I said: "We will have a standing vote. The whips advise me that there will be a five-minute bell. The vote, therefore, will take place at 4:30 p.m." That should read "3:30 p.m." because that is what was said. It was improperly recorded.

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THE SENATE

Thursday, June 10, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE EUGENE WHELAN, P.C.

TRIBUTES ON RETIREMENT

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I will never forget the comments of then solicitor general Herb Gray in 1996, when “the barefoot kid from the Third Concession” was appointed to the Senate. Master of understatement that he can be, Mr. Gray predicted that future debates in this chamber would be “lively and vigorous” with the addition of Anderdon Township’s most colourful hayseed — that straight shootin’, give-em hell, champion of the little guy — the man in the green Stetson, the Honourable Senator Eugene Whelan.

I first met Senator Whelan when I came to the Senate in the spring of 1972. That was before he went to the cabinet. When I first met him, he was a quiet, soft-spoken back-bencher in the other place.

Hon. Senators: Oh, oh!

Senator Graham: He even sat in the back row, against the wall of our national caucus room over in the West Block, often making irreverent comments about ministers and members alike. At that time, he was not the Senate’s most fervent fan, but as with others, such as our former colleague Allan Joseph MacEachen, there have been some remarkable conversions on the road to the Red Chamber.

In 1980, the Liberal Party of Canada held its biennial national convention in Winnipeg. As president of the party, I was invited by then prime minister Trudeau to introduce the cabinet as they marched one by one to thunderous applause on to the stage of the Winnipeg Convention Centre. As the cabinet was gathering backstage before the event, Eugene approached me and asked, “How are you going to introduce us Al, alphabetically?” I replied, “Yes.” “Then you better do it by department,” he warned.

• (1340)

Later that year, some people had a function in my honour — surprise, surprise — back home in Nova Scotia. Eugene and some others in the gallery today came all the way from Vancouver for that event. I still have the stand-up, old-fashioned telephone he gave me that night — white with red maple leafs

painted all over it. I got three messages from that: the measure of Eugene’s immense friendship; the love of anything that reminds us of our flag and our country, which he loves so passionately; and, obviously, that I talked too much.

Honourable senators, how do we begin to talk about a man universally respected, renowned, and a man who was, as many believe, including himself, Canada’s finest Minister of Agriculture? Eugene served over two decades as the federal member of Parliament for his beloved Essex—Windsor County. Susan, his daughter, who is in the gallery today, is now the sitting member for what is known as Essex, Eugene’s former riding. He has held more feet to the fire than any politician that I have ever known in this country.

As a farmer himself, he won many battles on behalf of Canadian farmers, whether it be in promoting marketing boards and producer cooperatives, or agricultural research and education, or farm credit, supply management and food reliance. In all the battles that he has fought, he has never hesitated to take on anyone that he thought stood in the way of justice. That went for big business and economists, meat packers and intellectuals, because they all suffered the vent of Eugene’s wrath or enjoyed his more hilarious aphorisms at one time or another — those ranging from “screwbball” to “gangsters” to “bureaucratic monsters” and the like.

It was once said that “the cow is of the bovine ilk; one end is moo, the other milk.” Whenever the gentle bovine, cuddly, cud-chewing species became a subject of discussion, Eugene would get pretty passionate, sometimes even poetic, and he would wax eloquently, so to speak. When the subject of bovine growth hormone was raised in the late 1980s, Senator Whelan, at the time running an agricultural consulting firm, got on the case. With general alarm over the issue of the safety of the public milk supply, he began to research the whole question, from moo to milk. “One of the reasons I went into the Senate was about rBST,” he said at the time of his appointment. He said that he figured it would give him an avenue to raise Cain over three years.

To understand Senator Whelan’s dedication, you need just ask any of the witnesses who appeared before the Senate Agriculture Committee about the passion and the determination that this feisty farmer politician showed in defending the public interest on a case that attracted not only national but international attention, a case that added immeasurably to the education of the general public, not only on rBST, important as this was itself, but on the whole issue of genetic engineering and its impact on the lives and the well-being of all of us on this planet.

Honourable senators, in some brief remarks that I made a week ago at a reception we held in honour of some of my colleagues and friends who are retiring from the Senate, I spoke of the wisdom and the strong sense of responsibility that the work of this historic institution demands. I spoke of the rather sad state of affairs in this country wherein the Senate has become the whipping boy for the individual discontents of media analysts, political pundits of various persuasions, and a whole host of singularly misinformed observers. I spoke about the unfortunate fact that surveys have shown that one in two Canadians knows so little about their country and its institutions and its laws that they could not pass a basic citizenship exam, rather fitting proof of the incredibly fertile soil the critics have to play in.

Senator Whelan's role in "raising Cain" over the rBST issue has been a wonderful example of the work that senators do all the time, with infinite, painstaking focus. It is just plain hard work. If ever there was a case study for the school books on the meaning of sober second thought on a matter gravely affecting the public good, it was this one. It shows all Canadians that the Senate remains, as it was designed to be, a vigilant, ever-watchful guardian of the rights and the freedoms of our people — a workshop, not a theatre, and a reservoir of great talent wherein we find a host of distinguished and dedicated people from all walks of life.

One of those we are really going to miss is the fiery farmer in the green Stetson, the colourful hayseed from Anderdon County, whose finest hours were spent in the service of our farmers, and our fields, and our trees, and our forests, and, yes, our gentle, brown-eyed bovines — the always controversial and greatly loved champion of the little guy, Senator Eugene Whelan.

Eugene's wife, Liz, is in the gallery, accompanied by His Excellency Paul Dempsey, the Ambassador of Ireland, whom we salute as well. His presence today is a testimony of Eugene's wide friendship both here and abroad. Also with Eugene today are his daughters Terry and Susan, whom I mentioned earlier, and Cathie and Katey, his granddaughters. It is a pleasure to see them all here today.

Liz, we thank you for sharing Eugene with the Canadian public for so many years. Good health and God bless.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as indicated so eloquently by the Leader of the Government in the Senate, Senator Whelan will be making his exit from the Senate during the upcoming recess. Therefore, we on this side wish to join with all honourable senators in saluting Senator Whelan for his many years of service to Parliament, and in particular his participation in the work of the Senate, a branch of Parliament which, over the years, he has always vigorously supported.

Honourable senators, it is my understanding — His Excellency the Ambassador in the gallery can confirm this — that next week Senator Whelan will be joining the Prime Minister on a trip to

Ireland. Therefore, neither Ambassador Dempsey, nor I, nor any of the great people of the town of Dublin will be surprised to see a moving green Stetson proceeding down Grattan Street and up O'Connell Street. We would wish, however, to forewarn our retiring friend to hang on to his hat as he crosses the bridge across the River Liffey. Can you imagine the site of that green Stetson floating down the river and out to the Irish Sea, frightening all the Canadian geese that swim in that river and shocking the cockles and mussels, thus putting on the unemployment "rakes" poor old Molly Malone.

• (1350)

Honourable senators, as Senator Graham has alluded to, and as all Canadians will acknowledge, the agricultural community of our country has, and will keep, a very special place of honour for Senator Whelan.

During his all too short sojourn in the Senate, he has honoured this place, and departs having made an indelible mark on this chamber.

Senator Whelan, we thank you for your participation and we thank you for your friendship. We wish you God speed, *ad multos annos*, together with all the blessings and favours that the Druids and saints of Erin might bestow.

Hon. Marian Maloney: Honourable senators, it gives me great pleasure to rise today to pay tribute to my friend Eugene Whelan. There is one thing for which I want to thank him in particular. Since coming to the Senate, all I have heard about is how old I am. I am happy to know that someone is a month older than I am!

Some years ago, Senator Whelan and I took part in a seminar put on by a group of women who called themselves Farm to Fridge. It was the best endeavour we ever had, most of it due to the work put in by Eugene.

His career has spanned a multitude of roles, from his days as a farmer, to federal Minister of Agriculture, ardent Liberal, Officer of the Order of Canada, former president of the World Food Council and, for a brief time, Canada's first ambassador to the Food and Agricultural Organization, not to mention his time as a senator.

Senator Whelan added an image to the Canadian political scene that has left its mark in Canadian history — the emerald green Stetson, his self-declared dialect of "Whelanese," and his outspoken and often controversial style. He became the champion of the farmer and was a strong and controversial advocate of marketing boards. His achievements lie in protecting farmers' incomes, in promoting agricultural research and awakening Canadians to agricultural responsibilities.

As Agriculture Minister, he was committed to helping Third World countries. For this commitment, he won the Christian Culture Gold Medal Award. As always, he has remembered to be the voice for those in our world who are not always heard.

Senator Whelan coined himself the "Teflon Man" after his heart trouble, but he definitely does not act with a cold heart. People who come in contact with Eugene cannot help but smile, not only because of the emerald green Stetson but also because of his warm nature. He is always himself, and he never put on airs.

He added a flair to the Hill which showed his sense of humour and good nature. We will remember the Stetson, but we will also remember his valued contribution in the Senate and the committees he sat on. There is more to a man than his hat and, Eugene, you proved this.

Thank you for your contribution to Canada, and especially for being yourself. It was something that all who knew you could depend on. My very best wishes to your family, whom I have known for years, and to yourself. Thank you for being a friend.

Hon. Mabel M. DeWare: Honourable senators, Senator Whelan may be surprised to see me on my feet today. However, I want to remind him of how we saw the green hat float all around the agricultural communities of New Brunswick, accompanied by my dear friend the Honourable Mac MacLeod, who was Eugene's counterpart in New Brunswick at that time.

The other thing I remember particularly about Senator Whelan is a Christmas card of him and Katey fishing. It was one of the nicest cards I received that year, and I have kept it as a memento.

I would like to say a few words to Senator Whelan on behalf of some of our Senate colleagues on the Agriculture Committee who could not be here with us today. One of them is Senator Spivak who had to be in Toronto for a meeting. They did not want to miss the occasion to say something to their friend and ally on the Agriculture Committee.

They say that politics makes strange bedfellows, and Senator Spivak said she wanted to assure honourable senators that the relationship between them was a chaste one, although not without some intimate collaboration. She told me that for the past year they have danced the rBST two-step with great aplomb. The man in the green hat and the effervescent blonde have often appeared side by side in *The Hill Times*, *The Globe and Mail*, as well as on Fox Television, CBC, BBC, et cetera, and they have all done the great Gene and Mira Show.

One wag said that the relationship has been a good one for Senator Whelan. It kept him focused, and it stopped him from riding off in all directions at once. Eugene Whelan was the Saint George who slew the dragon Monsanto, wearing a green hat rather than a mail helmet, and using a shovel rather than a sword.

As most of us know, Senator Whelan's famous green hat was a gift from farmers, a token of the respect and gratitude that Canada's farmers had for him. They also wanted to mention something that was given to him by a graduating class of Nova Scotia Agricultural College students in 1982. It was a hand-crafted copy of *A Farmer's Creed* which begins:

I believe a man's greatest profession is his dignity...

It ends in this way:

I believe my life will be measured ultimately by what I have done for my fellow man, and by this standard I fear no judgement.

I believe when a man grows old and sums up his days, he should be able to stand tall and feel proud in the life he's lived.

I believe in farming because it makes all this possible.

It is clear that Senator Whelan has lived by the creed as a farmer, as a minister of the Crown who was the best friend a farmer could ever have, and as our colleague here in the Senate. He will be deeply missed here and around the halls of Parliament. Have a wonderful retirement, Eugene.

Hon. Jerahmiel S. Grafstein: Honourable senators, what praise can one even hope to lavish on Gene Whelan that he has not endlessly lavished upon himself? To ignore Gene's advertisements for himself would be to ignore his unique contributions to public life. You have only to engage Gene once to discover that almost all the bloodlines of Canada run through his veins from his beloved Ireland, to aborigines, to France, to Eastern Europe. The fabled six degrees of separation simply dissolve in Gene's veins. What a combustible character is the distillation!

To say that Gene's gifts are unique is to diminish the definition of Gene's accomplishments — farmer, agronomist, small businessman, biologist, raconteur, public psychologist, orator, wit, politician, psychic, minister, consultant, diplomat and, finally, the greatest of all epiphanies in Canadian life, the Senate.

One might ask, honourable senators, why I would add my small, quavering voice to the thunderous, thundering paens of praise that have erupted from time to time from leaders such as Pearson, Trudeau or Chrétien. I wish to note, for the record only, that only a distinct society like Canada could have formulated a personality like Gene's. In fact, he is stranger than fiction, and almost as incredible.

• (1400)

Gene can lay credit as one of our greatest ministers of agriculture since Confederation, and certainly the most memorable. Gene can lay credit to influencing Gorbachev and the new world order. Gorbachev was then Soviet minister of agriculture on his first extended trip outside Russia across Canada. Honourable senators, I ask you to cast your minds back to this memorable sight, Gene and Gorbachev, across Canada together. It was Gene who accompanied Gorbachev every step of the way. Gorbachev had the distinct privilege of having Gene fill his ears and eyes about western markets and democracy, and the productivity of the lush farms across Canada, all as a result of Gene's own policies.

Gene may well have been an unnamed author of Gorbachev's Perestroika policies. Above all, Gene can lay credit as a staunch and vigilant guardian of "the liberal idea" within the Liberal Party. He could always be called upon to rail against the bastions of pomp and privilege, of always taking the side of the working Canadian, whether that Canadian was a farmer, a factory worker, a small businessperson, a clerk or a waiter. Gene was always on their side.

Honourable senators, I first met Gene in rather strange circumstances. It was well over 30 years ago when I was a young lawyer representing small interest groups opposing the Bell Telephone rate increase in Ottawa. One morning, I noticed a rather burly, homespun character lumbering up to the counsel table, laden with a jumble of papers, books and notes. At first I did not know what to make of him. As it turned out, Gene was then a shy, unknown and diffident back-bencher. He had personally intervened on behalf of his constituents to fight the increase in local telephone rates, because he felt they were unfair, particularly to the shut-ins, the disabled, and most particularly, to his rural constituents.

Gene and I sat together for many weeks at the counsel table, across from a large battery of high-priced lawyers. While Gene picked my brain about the theories of rate regulation, I picked his brain about the latest ins and outs of the Liberal Party. We took turns cross-examining Bell's experts and senior executives. They have never forgotten it.

From those days on, I became a lifelong admirer of Gene's shrewdness and political savvy. I found out that the gruff exterior and unmistakable twang camouflaged a soft, sensitive and, dare I say it, a romantic soul.

Several years later, I became deeply involved in the 1974 national campaign and the polls began to jump around. I thought I would pick Gene's brain once again. I began to call him regularly on the telephone and in person for advice. I found his assessments to be acute, accurate and precise, more deeply attuned to the public pulse than the polls.

Gene always demonstrated a quick first sense when it came to policies and people. It is not an accident that his perspicacity is still appreciated in every part of Canada, as demonstrated by the recent hearings he conducted as chair of the Standing Senate Committee on Agriculture and Forestry.

Honourable senators, we have evidence in the gallery that the apple does not fall far from the tree. Gene's daughter Susan, now an elected member of the other place, whom I have come to know in the last few years, shares his acute political genes and gifts in great abundance.

How then to sum up the many colourful sides of one Gene Whelan? To say he is unforgettable is fact. To say his accomplishments are undeniable is historic. To say that he has always devoutly believed in the interests of the average Canadian is more than a truism. To say that Gene is an original never to be duplicated is the closest one can come to putting in one word, the sparkling, gem-like qualities of Gene Whelan. Gene is a Canadian original.

Gene, on a more personal note, the Senate will be a lonelier place for the loss of your Liberal conscience, and most certainly a duller place without your lively presence.

To shift metaphors, let me say, Gene, as you leave the Senate to wander out once again on the unsuspecting public and into the hesitant yet hopeful arms of your faithful family:

May the road rise up to greet thee, and the wind always be at thy back.

Gene, keep your Irish up, and we will never let you down.

Hon. Senators: Hear, hear!

Hon. Lorna Milne: Honourable senators, I want to add a few words in tribute to the Honourable Eugene Whelan, PC.

My husband, Ross, and I have known and admired you, Gene, for well over a quarter of a century. Ross tells me that when he served in the House of Commons, you were the one cabinet minister who was always the best friend of the back-bencher. You were always ready to get out there on the hustings to visit ridings with them, anywhere in Canada and no matter who the audience was.

Others have outlined your long and distinguished career in Parliament, so I will not go into that, but you have been a true and faithful servant ever since your first election in 1962, through your two terms as Minister of Agriculture, and your almost three years here in the Senate, which have been too short. However, you have often said that is partly your own fault. You were in cabinet when you voted for cutting off the Senate term at 75 years of age.

We can wholeheartedly call you a happy warrior on behalf of Liberals and on behalf of Canada. As you said yesterday, the happiest part of any of your trips was coming home to Canada.

Gene, you are the most respected and trusted voice in Canada for the farm community. No matter what else has happened in your life, in your political career, you have never let Canadian farmers down and they know it. You have stood staunchly and foursquare for Canadian agriculture, and you are still doing that through the special inquiry that you inspired in the Senate into the use of bovine growth hormone to artificially increase milk production in dairy cattle.

I believe that millions of future Canadians will, perhaps unknowingly, live to thank you for that achievement alone. As you often say, "People want to know that their food is safe."

On behalf of Ross and I, and perhaps, I can take the liberty, too, without their permission, to add your long-time employees and better friends Norma Lamont and Linda Clifford, I want to thank you, Eugene, and your wonderful wife Liz, too, for your years of true friendship and for everything that you have done to preserve, protect and enhance that endangered species, the Canadian farmer.

Geno, we will never forget you, and I strongly suspect that you will be keeping a close eye on the Senate and on the Agriculture Committee. If ever we forget your farmers, you will remind us in person. Every time I see a green hat from now on, I will think, "Oops, here goes Eugene."

Hon. Dan Hays: Honourable senators, I should like to join in tributes to Senator Whelan. First and foremost, it has been a privilege to serve with Senator Whelan in this chamber, but more so, it has been a privilege to serve with him on the Standing Senate Committee on Agriculture and Forestry.

I took a quick look at Senator Whalen's biography, entitled appropriately: *Whelan*. I commend it to all honourable senators. It is not only a great story of his life but also of the times in which he has lived.

The modesty and humility that Gene felt when he was sworn in, as he expressed in the foreword to his biography, struck me. In any event, he soon overcame these feelings of humility and modesty and became the person that Senator Grafstein described, someone who was full of confidence, shrewd, energetic, dedicated and bold.

He used these characteristics to serve the just causes of his life, and what it is that he thought should be done to make his country a better place. In particular, he served the cause of Canadian agriculture as few Canadians have. He became not only one of our most outstanding ministers of agriculture, but one of our most outstanding ministers.

He had the privilege of serving in office long enough to see many of his visions to fruition. He was able to implement policies and do things that few ministers in Canadian government have had an opportunity to do, other than, of course, prime ministers.

• (1410)

On behalf of the farmers in this place and throughout the country, I wish to thank you for all the things you have done for us and for all the things that I know you will continue to do beyond the day of your retirement from this place.

I wish you well in your retirement. To you and your extended family, I extend congratulations on a remarkable career to this point. Keep it up.

[Translation]

Hon. Pierre De Bané: Honourable senators, I should like to add my voice to those of my fellow senators in paying tribute to our colleague Senator Whelan.

I had the honour of serving with him in both chambers, as well as in cabinet. He is an extraordinary man.

How can it be that he has never lost his devotion and fidelity to the people of Canada in all those years?

[English]

This is a miracle. It happens so seldom that someone is so faithful to his convictions, irrespective of all the influences and forces that try to crush that unique personality. That is why I am not surprised that recently Mr. Gorbachev, the former leader of the Soviet Union, said that of all the people he had met in his life, he rates Eugene Whelan from Canada among the 10 most impressive.

Hon. Senators: Hear, hear!

[Translation]

Senator De Bané: That is the deep impression I have had of Senator Whelan. I have seen him battle in the House of Commons, in the Senate, on various committees, in cabinet, and often with no allies in his fight except those for whom he was fighting. He did so faithfully and courageously, and this was an inspiration to me.

[English]

Eugene, you have been an inspiration to us all. I have never before seen so many people come to pay homage as I saw last night. People from all quarters of both houses came to pay homage to you for all your accomplishments. I am not surprised that so many people attended the testimonial dinner, at which you had the good fortune of being accompanied by your wife and your three children.

For everything you have done, thank you very much, from the bottom of my heart.

Hon. Nicholas W. Taylor: Honourable senators, I guess it is too late now to worry about Senator Whelan's head swelling. He has already received so much praise.

In the 1970s, Eugene came to help me out in Wetaskiwin, probably one of the least Liberal-oriented constituencies in Canada. I was most appreciative that someone as famous as the Minister of Agriculture would come to help out. He put on quite a show. Many people who had never voted Liberal, and have probably not since, came to hear Eugene Whelan. He had a tremendous effect.

He affected me tremendously as well. I was struggling in opposition, trying to get somewhere. I remember telling my wife that night that I met someone who had gone over big with the audience, using neither of Canada's two official languages. They seemed to understand him. One of the most prominent things about Eugene is his bond with the average voter that is impossible to duplicate or understand.

We will miss you very much, Eugene. I hope you will hang around to give advice to some of those who hold PhDs in political science and communications. During election campaigns, they need a little common sense once in a while. I hope you will be around to dispense that.

That meeting in Wetaskiwin is the only occasion I can remember Eugene taking more than 30 seconds to give an answer. As you know, Eugene was very interested and involved in dairy, and we were in a dairy community. Westerners understood that the cow gets fed in the west and gets milked in Toronto, but there was a fellow from Cape Breton in the audience who stood up and said, "What is it doing in the Maritimes, Gene?" After a minute or two he said, "I'll let you use your imagination."

Those many years ago I never thought I would have the chance to work with you, Eugene, as I have on the Agricultural Committee and its steering committee.

Some of the most interesting meetings that I have attended here have been with Senator Whelan and Senator Gustafson. I was sandwiched between two heavyweights. Those meetings tended to go on for a while when they started talking about farming in Ontario and Saskatchewan.

I was in Rome not too long ago, and I must tell you, Eugene, that they remember you there well and fondly as a person of great knowledge and a great Canadian.

I wish you the best during the years of your retirement. There is no corner of Canada that does not hope that you will be around for many years to come to continue giving us advice.

Hon. John Buchanan: Honourable senators, is it possible that Eugene Whelan is retiring? He is too active and too young to retire. I do not think he will retire. I think he will find something else to keep him busy over the next number of years.

I first met Eugene Whelan in 1978. While I was premier of that great province of Nova Scotia, I grew to like Eugene Whelan a lot. He was a very familiar figure throughout the agricultural communities of Nova Scotia. He meant a lot to the farmers of Nova Scotia. He understood them. He understood their problems, even though Atlantic Canada generally has different problems than those experienced in the rest of the country.

He got along particularly well with my minister of agriculture, Roger Bacon. As Eugene will acknowledge, he and Roger Bacon became very close, not only as ministers of agriculture, but as friends. To this day, they are close friends.

Roger asked me to extend his best wishes and congratulations to you.

From time to time, Eugene appeared at the Annapolis Valley Apple Blossom Festival. On at least two occasions, I shared a convertible with Eugene, driving along the main highway, he waving on one side and I waving on the other. Then our arms would cross and I would wave on his side and he would wave on mine. I believe we helped each other politically through those occasions.

• (1420)

Gene Whelan will go down in history as a great Canadian and one of the best ministers of agriculture this country has ever had.

I extend my personal best wishes to you for your future. I also extend best wishes from the farmers of Nova Scotia to you for your continued productive future. We will miss you here.

Hon. Senators: Hear, hear!

Hon. John B. Stewart: Honourable senators, Eugene Whelan and I entered the House of Commons on the same day in 1962.

If any of you have had occasion to look back over the history of the House of Commons, you will have noted that, in the early days, there were many farmers. There were village lawyers. There were even men involved in the fisheries. These were people with hands-on experience. Certainly by 1962, that pattern had changed. We already had many lawyers, professional politicians, and other kind of city folk. But Gene was a farmer. His roots were in rural Canada.

Senator Graham and others have said that, in those early days of the 1960s, Gene was quiet, soft-spoken, shy, humble, and self-deprecating. I have forgotten all the adjectives that have been used to describe him. The truth of the matter is that he was doing a reconnaissance. He was planning his strategy for the day when he would attack the planning of all the lawyers, professors, and other bookish people.

Who would have thought that Eugene would have turned out to be a successful diplomat? Reference has already been made to his influence on Mr. Gorbachov. He also, as Senator Buchanan has just now said, had a close bond with the average voter in Canada. I ask myself, is there a relationship, a common root, to his influence on Gorbachev on the one hand and his rapport with farmers in Nova Scotia on the other hand? My answer is "yes." It might be guessed that in his diverse roots there was a skilful leprechaun. However, I think the truth of the matter is that Eugene Whelan understood real people, real people working to make their livelihoods. We need some more like him in the other place and here.

I shall miss him a great deal, especially on the Foreign Affairs Committee, where sometimes he strives to be undemocratic. Nevertheless, his interventions always improve our work and our product. We are proud to have had him as a colleague on that committee.

Hon. Senators: Hear, hear!

[Translation]

Hon. Léonce Mercier: Honourable senators, Senator Whelan was Minister of Agriculture from 1972 to 1979 and from 1980 to 1984. He helped make Canada the great country it is, and that is something I would like to pass on to his family.

The Saguenay Lac-Saint-Jean region, where I come from, was represented by Mr. Langlois and the Honourable Jean Marchand. We had agricultural problems in many sectors, including blueberry operations and abattoirs. Agriculture generally was in a mess.

We therefore invited the Honourable Jean Marchand to pay us a visit. It was quite a festive occasion and I believe it was the first time Mr. Whelan had tasted blueberry pie. I remember that he had a little touch of blue when we met.

He later ran for the leadership of his party. He was a staunch member of his party and had many supporters. Things were going well, with all the usual fanfare. In fact, they could not have been better. Those of us with Mr. Chrétien wanted Mr. Whelan on board at all costs. The day of the convention, we were unfortunately one delegate short. A second vote was necessary. We went over to Mr. Whelan, confident that he would throw his support behind us. He hesitated a bit.

He was the first candidate in that race for the Liberal Party leadership to come over to us at the second round. I have always thought that decision might have had a little something to do with his appointment to the Senate.

Yesterday, in caucus, Prime Minister Chrétien paid great tribute to him. He said that he was a Liberal and a Canadian who never stopped fighting for Canada. I would now like to tell you a little story.

[English]

As many of you know, Senator Whelan and I were sworn in at the same time, on September 22, 1996. We both were new here, and I feel we somehow learned the ropes together.

Every day as I sat in this chamber, I noticed that Senator Whelan would get up from his seat at three o'clock and go to the reading room. He would always return with an apple in his pocket. One day, I saw him return with two apples. I had to ask him why this was. His answer, "Tomorrow is Friday. The Senate does not sit..." Senator Whelan just had to get his daily apple.

This habit seemed to pay off, because later when he was very sick and some feared for his life, Senator Whelan pulled through, clearly showing that an apple a day does keep the doctor away.

Senator Whelan, I give to you a beautiful green apple and a beautiful red apple. Unfortunately, there is no such thing as a blue apple.

Senator Nolin: Why not give him some blueberries?

The Hon. the Speaker: Honourable Senator Whelan, is it your pleasure to favour us with a few words?

Hon. Eugene Whelan: Honourable senators, you heard the speaker say "a few words." That will be very difficult for me. After I have heard these nice words, perhaps I should not even say a few words because I may destroy the great image which has been created here.

I am very happy to see my family here. I do not know how to describe the dinner my former staff put on last night. Some of you were there. As I said earlier, there were Conservative senators, Liberal senators, Liberal members of Parliament, and

people from all over Canada, from British Columbia, from Nova Scotia, people I met through farm organizations, et cetera. If you can imagine me being overwhelmed, I would say that was probably close to the truth.

You saw my family in the audience. You have heard me talk about my wife before. My wife came to Canada from Yugoslavia in 1937, with her sister and mother. She did not know her father until she came to Canada in 1937, because her dad had left for Saskatchewan in 1929, when she was not quite a year old. He left her and her mother and sister at that time, saying, "I will send for you in one year when I make \$1,000." It took him seven years under Conservative governments to make \$1,000 because, if you remember, the Great Depression took place.

• (1430)

Her father was a mason and a bricklayer to trade. He rode the rails to Toronto during the winter of 1932-33 and ended up working that spring. He was a German Catholic, and he worked for a German Mennonite, and the other hired man was a German Lutheran, a situation that never would have happened in any other place but Canada. They became very close friends.

Then my wife and her mother and sister joined her father on an island way out in the middle of Lake Erie. When her mother wanted her to get on the ferry boat, she nearly refused because she thought they were sending her back across the ocean again, even though it was only 11 miles from the mainland to the island.

My wife raised our three daughters, because I was in politics. Our eldest was only six months old when I ran for office and was elected in 1962. Sue and Cathy were born afterwards. People used to say, "Every time Gene's wife is pregnant, there is going to be another election" — and there was, if you remember, in 1962, 1963, 1965, 1968, and 1972. There is a man sitting up in the gallery, laughing away, but he was part of the problem. Senator Davey was the one making the decisions at that time for us.

I can remember that, sometime in 1972, I had a meeting with Prime Minister Trudeau and I told him, "I am like the Roman Senator Cincinnatus. I like my farm, I like my family. My farm is going to hell, and I do not know my family. I am going back to my farm, like the Roman senator did." The Prime Minister gave me a big speech about serving the country. I did not know the Liberals were taking polls at that time, because I never paid much attention to polls. He said, "We know you can win your riding, but nobody else can." He said, "Go home and talk to Elizabeth and see what she says about your running again." I went home and talked to her and she said, "You did not ask me the first time." Then she said, "Okay, you can run just one more time, that is all." So I ran.

Mr. Trudeau was forming the government in 1972, and Bud Olson, who had been Minister of Agriculture, was defeated. The waters of Lake Erie had risen eight feet, and were flooding all the marshland and the good farmland. A big vegetable growers' banquet was held in the town of Leamington, at the Roma Club, the big Italian hall. I was getting calls from farmers

asking what we were intending to do about their land which was being inundated. I was getting tired of these calls, and the bartender — the phone was on the end of the bar — came to me and said, "There is one more call for you." I went to the phone and said, "This is the very last one I will take. I want to eat my supper." — we still call the evening meal "supper" in my area because you have breakfast, dinner and supper, and if you remember, our Lord had his Last Supper. It was Prime Minister Trudeau on the phone, and he said, "Where are you?" I said, "I am at the vegetable growers' annual banquet in the Roma Club in Leamington, Ontario." He talked a bit and he said, "I want you to be my Minister of Agriculture." I said, "Did you ask Senator Davey?" Then I said, "Are you sure?"

Honourable senators heard some of the things said about me before. I enjoyed the caucus probably more than anything. As Senator Grafstein said, I sat in the back row and I raised hell every week. If I had not been able to do that in the caucus, I would not have stayed. In those days, the caucus was very democratic. I do not find it very democratic today. Today, you are limited on your time, and you have to have a regimented schedule, and if the chairman does not like you very much, and is scared of what you will say, he will say, "There is no time for you today. We will come back to you next week."

I said to Prime Minister Trudeau, "Are you sure you want me to be Minister of Agriculture?" He said, "Yes, and you stay the way you are. Do not change. You stay honest, and you will have no problem with me."

Lots of time in cabinet, ministers of agriculture find, as you have heard some say, that the battle can be pretty lonely. I want to say it would have been lonely for me if it had not been for the backing of Prime Minister Trudeau. If the poultry industry is healthy today, if the dairy industry is healthy today, it is only because Prime Minister Trudeau stood behind me in cabinet when some others were saying, "Gee, he is an embarrassment to us. Everyone wants him to go." I had had the largest group of farmers who ever came to visit a minister of agriculture come to visit me in Ottawa. They were kind of cheap, too. They did not throw good milk at me; they threw watered-down milk. I always resented that. After we were so good at making sure our grades were the top grades in the world, they threw the cheap stuff at me. However, if I had been one of the farmers, I would have been out throwing milk at us, too, for what we did, although at that time I defended what the government had done.

It has been argued that we elected René Lévesque at that time on our dairy policy. Farmers from Nova Scotia to British Columbia wanted \$46 million to stay alive, because this great globalization, this great free trade world that we will get back to, was being born into existence then. The United States and the European Community threw all their industrial dairy products on the market and depressed the market by nearly 60 per cent in seven weeks. Treasury Board and Finance said, "Those farmers do not need that. They will survive no matter what." I can remember Simon Reisman like it was yesterday. What a wizard he was. We came in the next year and put

\$150 million back, after the horse had been stolen from the barn — and we elected René Lévesque.

Do you know what Jean Garon offered me the first time I met him when he was the minister of agriculture under René Lévesque? He offered me a lifetime membership in the Parti Québécois for my help in electing them in Quebec with our dairy policy. We were phasing out the subsidy in the dairy industry. I knew we were right, and I could not believe that the premier of Quebec would call an election at that time, because of the wrath of these people.

I remember going to Quebec one time to speak, using my very best French, and I made the mistake of saying, using the feminine, "Mes chères amies," and I got on every radio station in Quebec. They would not believe I did not do it on purpose. If I had not made a mistake in French, I would never have been on the radio. Some thought it was part of a strategy. It was the advantage of not knowing both official languages. Prime Minister Trudeau said to me once, "You know, Eugene, there are two official languages, and you do not speak either one." I said, "Mr. Prime Minister, you have no trouble understanding it, though, do you?"

He came to me once and said, "Eugene, I have tried to understand agriculture. I have studied everything I can. I find it so complex that I just give up. I do not know how you do what you do, but just keep doing it." That is what I meant by his supporting me in cabinet.

Contrary to what a lot of people said about Prime Minister Trudeau, our cabinet was probably one of the most democratic cabinets ever. He would let us vote in cabinet. He would listen to 10 or 12 members on a subject, and say, "If any of you have anything new, let me know. You can come forward." He had a mind like a steel trap. He knew many cabinet ministers never read their documents. Sometimes I would come up a second time, and he would say, "Eugene, are you sure?" I would say, "Oh, yes, Mr. Prime Minister." If I was not too sure, I would be cut off in a second.

• (1440)

I would like to say something about my early career in politics. I was raised with eight brothers and sisters. My dad died when I was six years old, in 1931, during the Depression. My mother was a widow at age 38, with nine kids. There was no assistance of any significance at that time. We had relatives in Ohio and Michigan as well as in other places. They decided that some of the older kids would be divided up amongst our relatives. I was supposed to go with a cousin in Cleveland, Ohio. Somehow, she got \$45 a month for mother's allowance for her and nine children. My dad died of cancer. He had gone to all kinds of doctors to try to find a cure, but at that time they knew very little about that disease. He sold holstein cattle and accepted notes as collateral from the farmers. Some of those notes were for \$850. He then took those notes to the bank as collateral and paid off his bills. It took us years to pay that off the debt at the bank as most of the farmers could not make good on those notes because the depression was so bad.

As a kid, I can remember being given a cheque for \$45. I would ride my bike into the bank at Amherstburg and put the cheque on the bank counter. The kind banker would take \$5 off that \$45.00 every month as a payment on the interest. If you have noticed my "kindness" towards banks, it is because I never forgot their "kindness." To me, they were so miserable that I still do not have much use for them.

I went to our municipal council. When I asked Senator Beaudoin one day if he knew where Belle River, La Salle or Point-aux-Roches were, he said, "Of course. They are Quebec." I told Senator Beaudoin, "You might know your constitutional law but you do not know your geography." Those places are all in Essex county which was settled by the French about 300 years ago. Almost all of us were half French and half English. My mother was a Kelly but her mother was a Richard. My dad's mother was a Bailey but her mother was a Magille. That is why Senator Grafstein said that I have culture from every culture that ever existed.

In the constituency that I represented for such a long time, namely, Essex—Windsor — and, my daughter is now representing it — there are 72 ethnic groups. It is one of the most cosmopolitan parts of Canada. I am lucky to have been raised in that area.

When we wanted to buy a baseball, a bat and a glove, it was with about \$6. We went to the township council. The reeve was an Irishman and the councillors had names such as Beaudoin, Brisson, and so on, French Canadian names. We sat and waited for our turn to go before the council. I will never forget the lesson in democracy that I learned that day. It is one that I tried to practice the rest of my life. The reeve said, "Boys, what can we do for you?" We told him, "He cheated us." The reeve said, "We do not have a penny in the treasury. We would love to help you, but we cannot." The lasting impression that I carried through the rest of my political life — and, in fact, I carry it with me to this day — is that we were treated the same as the biggest taxpayer in the township who was there that night. I never forgot the treatment that we received in a rural, old-fashioned democracy.

I wish to apologize to the Clerk of this assembly. I did not mention his home town, St. Joachim. Some people think that he came from Quebec, but he actually comes from la belle county d'Essex. I know his whole family. However, I will not tell you how they voted, because I really do not know.

Honourable senators, I see many members of this assembly that I have known for a long time, in particular, Dr. Stewart, Gerry Grafstein, Eymard Corbin, Jack Austin, Serge Joyal and Alasdair Graham. I have known Senator Graham for so many years that I can remember when he worked for Allan MacEachen. We gave him a phone because every time we called him, he was on the phone. We thought he needed an extra phone.

In my country, Canada, I was allowed to achieve some of the highest positions. I achieved one of the highest positions in the United Nations when I was elected by 26 other countries as member of the World Food Council. I was the founding member of that council. Last night, at our reception, the contents of a letter written from the head of the United Nations were read. The

letter went through the history of the formation of the World Food Council. I did not know that they would do all these things.

I can remember going to Africa during the famine and seeing terrible situations and knowing that, as a farmer, these things did not have to happen. We had seen this via satellite transmissions, so we knew what was happening. We knew that Ethiopia was being denuded by drought. The trees and the grass were gone. Everything was gone. Yet, when I returned to Canada and made my report a bunch of bureaucrats said, "Whelan is wrong. If it rains, they will be okay." My God, they had eaten all their seeds. They told us that the survey conducted by the good people from Agriculture Canada, World Vision and Catholic Aid had reached the wrong conclusions. It was the bureaucrats who were wrong. We were raised poor, but not like that.

Our country, Canada, allowed me to do this. The little people who elected me in my constituency of Essex—Windsor — people who never knew they could take part in politics — found out they were able to take part in politics. They are still taking part — and, I say this with all humility again — in Liberal politics.

Mention was made of New Brunswick. I should like honourable senators to know that all of southwestern Ontario, one of the richest areas in Canada and one that is as Liberal as Liberal could be, still believes in democracy.

I remember campaigning in Manitoba. I think Sharon Carstairs and His Honour will be interested in hearing about a meeting at Ste. Rose du Lac, where they had what I call a "hoof and holler." The suffering they put me through there was pretty unbearable. It was called a hoof and holler because all the beef producers in that area hold one banquet. They lined up all the 4-H girls — 42 in all — and made me dance with every one of them! It was terrible. Some of them will never forget it either, because I am one of the world's worst dancers. In fact, my wife will not forget it, either.

You talk about my green chapeau. They gave me a brown chapeau that day. The green one also comes from Manitoba. It comes from Swan River. All the men and women wore green hats at the fair and exhibition. They said, "Mr. Minister, we will give you a green hat if you will wear it." I said, "What does it stand for?" I am partly colour blind. They said, "It stands for love, hope, charity, fertility and growth, all good things in life." I added "money" and "the Irish."

One day, when I was going through an airport in Canada, a man asked me, "What does that hat represent? Why do you wear that kooky hat?" Shortly after I explained it to him, a woman snuck up alongside me and said, "Mr. Whelan, how is the fertility part?" I told her that I had to take pills to keep myself under control.

Honourable senators, in my world travels, I missed visiting some of the rich countries. Seeing Senator Perrault sitting in this chamber brings back fond memories. I remember trying to educate his assistant in being a politician by having him follow me around British Columbia. I do not know if he ever did learn.

Honourable senators, I have had the pleasure and the honour of meeting all the presidents and all the top world religious leaders, and I have pleaded with them to assist the poor people of the world. When I see what is happening in the world today, I become very sad. I remember Gorbachev and the result of his trip to Canada. I remember the Iron Curtain coming down and the Cold War coming to an end. Today, however, when we think about the millions of people who have been killed, I wonder if were we so right in creating one superpower. Before, when we went to world meetings, there was some competition.

Before I sit down, I wish to say something about the Senate. You all know my history, but I wish to leave you with one thought: A smart man changes his mind; a fool never does.

• (1450)

The Senate of Canada allowed me an avenue, and I will never forget these last three years. I lost several of those months, if you remember, with the terrible surgery that I went through. I had a dissected aorta and was in ICU for 19 days. I told the Prime Minister, "God only let me live so I could come back and be your conscience." He said, "Thank God there are only two Whelans in the caucus."

My party and my country have allowed me to achieve some of the highest positions in the world. Perhaps I have rambled on too long and talked too much about it, but there is no other country like Canada. Whenever I travelled abroad, the best part of those trips was coming home to Canada, whether I landed at St. John's or Vancouver. This country allowed this peasant kid to achieve these things.

A few weeks ago, the President of the Czech Republic addressed both Houses of Parliament. He said governments are not so important; people are most important.

Hon. Senators: Hear, hear!

DISTINGUISHED VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to a visitor in our gallery, one of our ex-colleagues, the Honourable Senator Davey.

I also wish to draw your attention to the presence in our gallery of a member of the other place from past days, Mr. Ross Milne, who, of course, has a special connection with the Senate.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

Hon. Lowell Murray: Honourable senators, I gave written notice earlier today that I would be raising a question of privilege concerning the five-minute bell that was held yesterday on a

vote. I simply wish to confirm that I have done that, and that I will be speaking to the matter and making a motion at the appropriate time.

The Hon. the Speaker: It is appropriate, Honourable Senator Murray, that in making your statement you advise what step you wish to take to correct the matter, either a reference to the Rules Committee or a motion before the Senate. Would you make that distinction in your statement?

Senator Murray: Honourable senators, I take this occasion to advise colleagues that I intend to propose a motion later on the issue of the rights of all senators to be able to participate in standing votes in the Senate that have been requested in accordance with rule 65(3), and that the procedures followed on June 9, 1999, regarding the vote to adjourn the debate on the eleventh report on the Standing Committee on Privileges, Standing Rules and Orders be referred to the Standing Committee on Privileges, Standing Rules and Orders.

The Hon. the Speaker: I wish to advise the Senate that the Honourable Senator Murray has fulfilled the requirements for a question of privilege. It will be taken up after the Orders of the Day are completed.

Senator Prud'homme: Hear, hear! Hold the vote again!

[Translation]

LA FRANCOPHONIE SUMMIT

MONCTON, NEW BRUNSWICK, TO HOST SUMMIT IN 1999

Hon. Rose-Marie Losier-Cool: Honourable senators, over the course of this summer, but especially in September, 1999, the City of Moncton and the Province of New Brunswick will take their place in La Francophonie. Fernand Landry, Director General of the Summit Organization Secretariat, along with all those helping to set up the Eighth Summit of La Francophonie, have done everything possible to ensure that the Moncton Summit will be a real success, but retain the simplicity that is the hallmark of the Acadian people. I congratulate Mr. Landry and his team.

This event will be the biggest window ever on Acadian history, as francophones around the world will have their eyes on this region of Canada over the entire summer.

I would like, today, to describe for you some technical aspects of organizing a summit. This undertaking is of such scope that the Moncton region must ready itself to welcome several thousand participants and observers as well as 500 journalists and technicians.

Communications provide one of the greatest challenges for the summit organizers, who began by turning the Faculty of Administration of the University of Moncton into a press centre. This centre will have editing suites, conference rooms and technical facilities for radio, television and newspapers. This centre is a precedent at the University of Moncton.

The theme of the summit is youth. Over 800 young people from the Atlantic Region have already met in round table discussion groups to consider culture, economics and human rights in the international francophone community.

A new element will be added to this summit: the page program. Students in the 11th and 12th year of French language and French immersion schools across Canada had until March 1, 1999 to compete in a national competition called "Young Pages of Canada." In mid-June, some 50 young people will be selected and will serve as pages in the various summit conferences.

The young people will be serving as pages as the conference of the ministers, and at the conference of the heads of state and of government. They will be involved in moving documents, notes and other things between the delegates and the various conference services. The pages will also have access to the room in which the deliberations will be held, so they will have a front-row seat at the most important meetings of the francophone world. I would like to congratulate the chief senior page of the Senate, Michel Thériault, who will be one of the people in charge of this program.

The media centre set up at University of Moncton is but one example of the technological preparations for communications at the Moncton Summit. Throughout the summer, a new radio voice will be added to the airwaves in Acadia and the Francophonie, with Radio Jeunesse 1999, which will be hosted by young people between the ages of 18 and 30 from around the world. It will focus on the theme of the summit: youth.

The most popular means of communication for the summit is, without a doubt, its Web site, which has been getting an average of over one thousand hits a day since the beginning of 1999.

So, honourable senators, this year Acadia will not just be welcoming the 47 members states of the Francophonie. Acadia will be welcoming the whole world.

[English]

PROPOSAL FOR APPOINTMENT OF FEDERAL OMBUDSMAN

Hon. Lois M. Wilson: Honourable senators, two days ago, the Canadian Ombudsman Association was represented in Ottawa by Roberta Jamieson, the Ontario ombudsman, and Douglas Ruck, the Nova Scotia ombudsman. They were in Ottawa to make the case for a Canadian federal ombudsman.

The association which they represent, formed in September of 1998, as one of its first official acts, passed a resolution calling on the government and the Parliament of Canada to establish a federal general ombudsman to deal with complaints from the public about administrative treatment by federal government departments and agencies. This resolution was prompted by the fact that provincial officers are inundated with cases brought to them that have to do essentially with federal matters. The Ontario ombudsman alone received more than 1,600 such cases in the last three reported fiscal years.

A federal ombudsman would complement the work of administrative tribunals, both by dealing with cases that are not appropriate for a tribunal, and by dealing with complaints about the administration of tribunals themselves. The proposal is that such a federal officer would cover all areas of federal jurisdiction not presently covered by existing federal statutory ombudsmen, and would work cooperatively with those existing specialized offices.

The two advocates from Ontario and Nova Scotia whom we heard, and their association, believe the creation of a federal ombudsman would result in savings if costs of litigation, discontent and loss of public confidence in government were taken into account.

• (1500)

Since the 1970s, Canada has been one of the leading countries, globally, in establishing ombudsman's offices. Of all the main western democracies that have these offices at any level, only four do not have a national ombudsman. They are Italy, Switzerland, the United States and Canada.

Through a number of Canadian and international agencies, the Canadian government is active in assisting developing nations improve their democratic institutions, including the provision of help in establishing such an office. This office is widely regarded as one of the pillars of a democratic society.

The ombudsman must be, and must be seen to be, independent of government and free to carry out, without interference, the legislative mandate provided by Parliament. Such a person would be an officer of Parliament, reporting both to Parliament and the Canadian public.

The urgency for Canada to have such an officer is not a reflection on the quality of the federal bureaucracy. On the contrary, the willingness to have such an office is evidence of good government, and a sign that government is quite prepared to have an independent scrutiny of its actions.

Honourable senators, therefore, I urge your informed interest for this proposal when it does come on-stream.

PEACE IN YUGOSLAVIA

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, at this very moment in the other place, the Prime Minister is making a statement on the peace settlement that has been reached for the Kosovo region. His statement follows the adoption earlier today by the United Nations Security Council of a resolution setting the terms for an end to the conflict in Kosovo and NATO's announcement that it is suspending air operations against the Federal Republic of Yugoslavia.

On behalf of the government and all Canadians, I would like to begin by thanking the men and women of our Armed Forces who responded so selflessly and professionally when called upon to join our NATO allies in a campaign to bring peace and stability to a part of the world so many thousands of miles away from their own homes and families. Their contribution, and particularly those of our pilots, makes us all very proud.

Their efforts were overwhelmingly supported by the people of Canada, who so generously opened their hearts to the Kosovo refugees arriving on our shores. Canadians understand that there are occasions when events taking place in the world are so fundamentally and morally wrong that it would be unconscionable to stand aside and do nothing.

We are all citizens of this world, and there are fundamental rights that all of us possess, no matter where we may live. The brutalization of an entire civilian population, the state-sponsored murder of men, women and children on purely racial grounds, and ethnic cleansing are inimical to those rights.

We should all remember that this was the situation in Kosovo that months of diplomatic efforts could not change. Between March and October of 1998, the United Nations Security Council tried to end the violence in Kosovo with three major resolutions. They were all ignored by Yugoslavia. There were also scores of diplomatic missions to Belgrade that failed to achieve any results. Finally, a major peace conference held in France in March of this year was unsuccessful because of the intransigence of the Yugoslavian authorities.

While all of these diplomatic efforts were being pursued, more and more Yugoslav troops were being moved into Kosovo, and more civilians were being murdered or forced from their homes. While diplomats talked, the rule of terror was being imposed upon Kosovo.

That is the situation that finally forced NATO to intervene. The alternative would have been to watch passively as an entire population was terrorized and expelled from its ancestral land. That would have been wrong. That would have sent a message to all other would-be Milocevics around the world that there are no limits to what they can do. As a result of what was achieved today, we can now say that there are in fact limits, that there are lines that should not be crossed.

When Vaclav Havel, the President of the Czech Republic, addressed both Houses of Parliament on April 29, 1999, he said:

If it is possible to say about the war that it is ethical, or that it is fought for ethical reasons, it is true of this war...

Nevertheless, the Alliance is fighting...in the name of human interest for the fate of other human beings. It is fighting because decent people cannot sit back and watch systematic, state directed massacres of other people.

This was the situation, honourable senators, when NATO embarked on its air campaign with very clear objectives. Those objectives, which I have repeated many times over the past weeks, have now been achieved. There will be a peacekeeping force led by NATO, a withdrawal of Yugoslavia forces, the demilitarization of the KLA, and the return of refugees to their homes, where, hopefully, they will be able to live in dignity and peace, regardless of their ethnic origin.

As of this afternoon, forces of the Federal Republic of Yugoslavia have already begun their withdrawal. NATO forces, including members of our Armed Forces, are poised to cross over the border into Kosovo as early as tomorrow. Even as we speak, the terms of settlement adopted by the United Nations Security Council today are being implemented.

Though events are moving rapidly, the story is far from finished. There is much that remains to be done. The withdrawal of Yugoslav forces must be monitored carefully because the Milosevic regime has betrayed its commitments in the past. Until the international peacekeeping force is firmly in control, the situation in Kosovo will be far from stable. However, stability will be achieved and the enormous task of rebuilding the lives and communities of the people of Kosovo will begin. The refugees will be returned; democratic institutions will be built; reconciliation and reconstruction will be encouraged and facilitated.

Canada will work within international organizations, such as the United Nations, the OSCE and the World Bank, and also through its own bilateral assistance programs, to provide the support that will be needed so desperately by the people of Kosovo as they return to their homes to rebuild their lives.

Honourable senators, this was not a war against the people of Yugoslavia. It was a war against state-directed terrorism and ethnic cleansing. This government believes that humanitarian and human rights concerns are not just internal matters, and that what was achieved is an important step not only for the people of Kosovo but toward a broader definition of security by the international community.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence of a special group of guests in the gallery. It is a group from the Canadian Cadet Movement, representing the Sea, Army and Air Cadets, the Navy, Army and Air Cadet Leagues, and the Cadet Instructors Cadre of the Canadian Forces.

All are here today to launch a national initiative to promote environmental awareness and responsibility in its 70,000 participants nationwide. The initiative is called, "Cadets Caring for Canada."

We are pleased to participate in the launch of your program. We wish you well in your citizenship project dedicated to cleaning up and protecting the environment.

On behalf of all senators, I wish you welcome here to the Senate of Canada.

Honourable senators, I might add that the cadet movement is the foremost and best youth training movement in Canada.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 10, 1999

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-FIFTH REPORT

Your Committee, to which was referred Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence, has, in obedience to the Order of Reference of Tuesday, June 8, 1999, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Milne, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—REPORT OF COMMITTEE
PRESENTED AND PRINTED AS APPENDIX

Hon. Lowell Murray, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 10, 1999

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWENTIETH REPORT

Your Committee, to which was referred, Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act, has, in obedience to the Order of Reference of Tuesday, May 11, 1999, examined the said Bill and now reports the same without amendment.

Attached as an appendix to this Report are the observations of your Committee on Bill C-66.

Respectfully submitted,

LOWELL MURRAY
Chairman

The Hon. the Speaker: Honourable senators, is it agreed that the appendix to the report be printed as an appendix to the *Journals of the Senate* of this day?

Hon. Senators: Agreed.

(*For text of Appendix see today's Journals of the Senate, Appendix A, p. 1718.*)

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

BANK ACT WINDING-UP AND RESTRUCTURING ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Jack Austin, for Senator Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 10, 1999

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SIXTH REPORT

Your Committee, to which was referred the Bill C-67, to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated Thursday, June 3, 1999, and now reports the same without amendment.

Respectfully submitted,

JACK AUSTIN
Member of the Committee

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Austin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

**CANADA TRAVELLING EXHIBITIONS
INDEMNIFICATION BILL**

REPORT OF COMMITTEE

Hon. Lowell Murray, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, June 10, 1999

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

TWENTY-FIRST REPORT

Your Committee, to which was referred Bill C-64, to establish an indemnification program for travelling exhibitions, has, in obedience to the Order of Reference of Thursday, June 3, 1999, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

THE ESTIMATES, 1999-2000

INTERIM REPORT OF COMMITTEE
PRESENTED AND PRINTED AS APPENDIX

Hon. Anne C. Cools: Honourable senators, I have the honour to present the sixteenth report of the Standing Senate Committee on National Finance being an interim report concerning the examination of the Main Estimates laid before Parliament for the fiscal year ending March 31, 2000.

I ask that the report be printed as an appendix to the *Journals of the Senate* of this day, and that it form part of the permanent record of this house.

The Hon. the Speaker: Honourable senators, is it agreed that this report be printed as an appendix?

Hon. Senators: Agreed.

(*For text of Appendix see today's Journals of the Senate, Appendix B, p. 1721.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Cools, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, June 14, 1999, at 4:00 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

**MISCELLANEOUS STATUTE LAW
AMENDMENT BILL, 1999**

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-84, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain acts that have ceased to have effect.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I move, for Senator Losier-Cool, that this bill be placed on the Orders of the Day for second reading on Monday next, June 14, 1999.

Hon. Roch Bolduc: Honourable senators, can Senator Carstairs tell us how many acts this bill amends.

Senator Carstairs: Honourable senators, I do not have a copy of the bill. The bill has not been distributed and will not be until after we have agreed to the motion. At that time we will learn how many acts are to be amended by this bill.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Carstairs, for Senator Losier-Cool, bill placed on the Orders of the Day for second reading on Monday next, June 14, 1999.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-82, to amend the Criminal Code (impaired driving and related matters).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

• (1520)

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading on Monday next, June 14, 1999.

ABORIGINAL GOVERNANCE

ROYAL COMMISSION ON ABORIGINAL PEOPLES— NOTICE OF MOTION TO PERMIT COMMITTEE TO TABLE FINAL REPORT ON STUDY WITH CLERK

Hon. Charlie Watt: Honourable senators, I give notice that on Monday next, June 14, 1999, I will move.

That, in relation to the Order of the Senate adopted on Tuesday, December 9, 1997, the Standing Senate Committee on Aboriginal Peoples, which was authorized to examine and report upon the recommendations of the *Royal Commission Report on Aboriginal Peoples*, (*Sessional Papers 2/35-508*) respecting Aboriginal governance, be permitted notwithstanding usual practices, to deposit its report with the Clerk of the Senate if the Senate is not sitting and that report be deemed to have been tabled in the chamber.

[Translation]

TRANSPORT AND COMMUNICATION

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE INFORMATION, ARTS AND ENTERTAINMENT MEDIA

Hon. Marie-P. Poulin: Honourable senators, I give notice that, on the next sitting of the Senate, I will move:

That the Senate Standing Committee on Transport and Communications be authorized to examine and report upon the information, arts and entertainment provided by the traditional and modern media to Canadians, given the changing nature of mass communications and technological innovation;

That the Committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the Committee present its final report no later than June 15, 2000.

[English]

QUESTION PERIOD

UNITED NATIONS

TERMS OF GENERAL ASSEMBLY RESOLUTION FOR END TO CONFLICT IN YUGOSLAVIA—REQUEST FOR TABLING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, first, I want to thank the Leader of the Government in the Senate for the information provided in the ministerial statement a few moments ago.

Given that in the United Nations all documents, and certainly this resolution, of the Security Council are prepared in the five different working languages of the United Nations, a copy of that resolution would be available in the two official languages of Canada. Therefore, would the minister table the document this afternoon in the Senate?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, if I could get the document in both official languages, I would be most anxious to table it. I shall make every effort to do so.

NORTH ATLANTIC TREATY ORGANIZATION

CONFLICT IN YUGOSLAVIA— CONFORMITY TO INTERNATIONAL LAW—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I am sure all honourable senators and all Canadians welcome this resolution of the General Assembly of the United Nations. For many of us it is welcome because we see, in terms of international law, a return to the rule of law.

Can the minister explain to this house why the Government of Canada became involved, through a regional organization, NATO in this instance, in an action which was not respectful of the rule of law in terms of international law? The bombing campaign was executed without a proper international mandate. That raises grave concern.

The minister referred to ethical concerns. I am speaking of fundamental principles of international law and respect for the rule of law.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I believe the honourable senator raises a valid question. However, we must consider the alternative, I outlined in my brief statement on the resolution and the settlement. I can do no better than to refer again to Vaclav Havel's speech to both Houses of Parliament not too long ago. He said, "If it is possible to say about any war that it is ethical or that it is fought for ethical reasons, then that is true of this war." "The NATO alliance," he said, "is fighting in the name of human interest for the fate of other human beings. It is fighting because decent people cannot sit back and watch systematic, state-directed massacres of other people."

We could have sat back and done nothing, but those with humanitarian interests at heart could not allow what was happening in the Balkans to continue or to spread further. It was impossible to achieve an appropriate resolution at the United Nations because of the veto of both Russia and China. Unfortunately, it was necessary to take the decision to bomb. We are all thankful of the resolution which has now been adopted by the Security Council of the United Nations.

UNITED NATIONS

CONFLICT IN YUGOSLAVIA—SUPPORT FOR ACHIEVEMENT OF SECURITY COUNCIL RESOLUTION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, if none of the permanent members of the Security Council exercised a veto with reference to this current resolution of the Security Council, why would it not have been possible to have crafted and secured the support of all members of the Security Council some 80 days ago? If it was done yesterday, why could it not have been done 80 days ago?

Hon. B. Alasdair Graham (Leader of the Government): I can only say that they reached a conclusion after some 80 days of bombing. Unfortunately, the air strikes appeared to be necessary in order to bring Milosevic and his associates to their senses.

It was made quite clear in earlier diplomatic negotiations undertaken by the Secretary General of the United Nations, by the European Union, by the G-8 representatives and by representatives of NATO that it would be very difficult to get a unanimous resolution. We did not achieve unanimous approval at the Security Council because of China's abstention. However, all diplomatic efforts were made to go through the United Nations route. Those efforts failed until today.

FOREIGN AFFAIRS

CONFLICT IN YUGOSLAVIA—PLANS FOR POST-CONFLICT RECONSTRUCTION—GOVERNMENT POSITION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the matter of reconstruction in Serbia and Kosovo, I am curious to find out about the policy of the

Government of Canada with respect to Canadian contributions, fiscal or otherwise, and whether such reconstruction aid from Canada will be tied to the continuance in office of President Milosevic in Yugoslavia?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, with respect to Serbia, such work would be tied directly to the fate of President Milosevic and whether or not he continues in office.

• (1530)

The first Canadian Forces to go into Kosovo will be engineers, who could very well be involved in both reconstruction and removing mines. The Government of Canada is fully cognizant of its obligations under any massive restructuring program that will be necessary in the Balkans.

Senator Kinsella: Honourable senators, is the decision of the Government of Canada that it will not give aid to Serbia as long as President Milosevic is with the government?

Senator Graham: That is something I would not wish to state definitively, but I suspect that would be the case. I concede that I do not have a definitive answer in that respect, but that is what I would consider to be the appropriate course to follow.

HUMAN RIGHTS

REVENUE CANADA—RESULTS OF STUDY ALLEGING DISCRIMINATION AGAINST VISIBLE MINORITIES AT CHECK POINTS—REQUEST FOR EXAMINATION BY SPECIAL COMMITTEE

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. Honourable senators will know that, in my nine years at the Senate, I have relentlessly and consistently raised issues of human rights, equality, equity, and fairness, particularly in relation to visible minorities. Tuesday's "Quorum" carried a story from *The Ottawa Citizen* entitled, "Blacks feel harassed by customs: study." It reads:

Many black travellers, especially Torontonians returning from Jamaica, feel poorly treated by Canada Customs officials, a federal study indicates.

...

Research firm COMPAS Inc., which prepared the study for the Revenue Department, conducted 18 focus groups with Canadian visible minorities in early March in Halifax, Toronto, Montreal, Calgary and Vancouver.

More than one-third of the participants said they had been treated differently than white travellers. Several told stories of being singled out by officers for lengthy questioning, identification checks and inspections.

What does the government intend to do about this problem? Will the honourable minister recommend that a special joint committee of the House of Commons and the Senate be struck to do a follow-up study to the report "Equality Now"? Will the leader take the initiative to strike a special committee of the Senate to study this problem of racism and inequality?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, as an organization that is concerned with client service, Revenue Canada often consults with the travelling public about their experiences with Canada Customs. As the Honourable Senator Oliver has indicated, there was a survey taken by COMPAS Research consultants in the cities and airports which he mentioned. The study referred to *The Ottawa Citizen* article was undertaken by Revenue Canada to determine whether visible minority travellers perceive that they are treated differently at Canada Customs.

Revenue Canada will use the study results to fine-tune the services it offers to visible minority travellers. Changes to information programs, training for officers, and a series of community outreach activities are some of the initiatives that are being considered.

Whether it would be appropriate to establish a joint committee to examine this issue is something that could appropriately be brought before the Standing Committee on Privileges, Standing Rules and Orders. As well, Senator Oliver, or any honourable senator, could take the initiative of raising an inquiry on this situation.

AGRICULTURE

FARM CRISIS IN PRAIRIE PROVINCES— POSSIBILITY OF GOVERNMENT SUPPORT

Hon. A. Raynell Andreychuk: Honourable senators, yesterday I and other senators spoke to the disaster in the agriculture industry in Manitoba and Saskatchewan. The Honourable Leader of the Government in the Senate indicated that he would be meeting at 3:30 yesterday with the minister to convey those concerns.

Could he relate to us the outcome of those discussions? Is there any hope for the farmers?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I wish to confirm that indeed I did have a discussion yesterday with Minister Vanclief, and I followed up on that discussion with the minister this morning.

The minister will be speaking directly to farmers and farm leaders tomorrow to learn firsthand about the conditions currently faced by thousands of farmers in southwestern Manitoba and southeastern Saskatchewan.

In cases of flooded farmland, the federal and provincial governments provide crop insurance for unseeded acreage. This is a feature of the Saskatchewan program but is an extra-cost rider in Manitoba. In addition, production loss insurance for annual crops and forage crops is available.

Yesterday, the Minister of Agriculture and Agri-Food, along with his counterpart in Saskatchewan, announced a series of changes to crop insurance, including the extension of seeding deadlines to help farmers deal with continued heavy rains.

I am sure that in his visits to both Manitoba and Saskatchewan the minister will want to consult with farmers. He is in continuous contact with the ministers in each of those provinces.

Senator Andreychuk: Honourable senators, a natural disaster economist with the federal Department of Agriculture and Agri-Food, says that the losses could potentially be as high as \$400 million if the rains continue and if the farmers are prevented from seeding. He goes on to state that, despite the losses, the price of wheat products will not go up dramatically. Wheat prices are determined by world market conditions. For the average Toronto housewife, this will not have a dramatic impact on the price of bread, but for the average farmer, this is devastating.

In that case, crop insurance is not the issue. Many farmers cannot afford crop insurance. They cannot afford to wait for the outcome to see if they can seed. If they can seed, they will probably get a much lower yield than normal.

Will the government undertake to ensure that there is some aid package immediately? This cannot wait for either crop insurance or the Agriculture Income Disaster Assistance program, commonly known as AIDA.

Senator Graham: Honourable senators, the minister is working to build as much flexibility as possible into the AIDA program. For example he is allowing producers to apply later in 1999 with a projected financial assessment of their income. If those assessments trigger AIDA payments, an interim payment could be made. Final calculations would be made later based on final figures for 1999.

The minister is attempting, in every way possible, to trigger aid as soon as feasible.

Senator Andreychuk: Honourable senators, this situation has not captured the attention of the national media, as did the ice storm and the Winnipeg flood. However, it is as great a disaster as either of those. We cannot continue to wait because the results will affect not only the farmers but all of Saskatchewan. Agriculture drives the economy of the province. Everyone is suffering.

We cannot wait for the outcome of these scattered programs. We need a direct injection of cash into the provinces immediately so that they can survive in a very fragile economy.

Senator Graham: Honourable senators, as my honourable friend Senator Andreychuk knows, when the AIDA program was put in place, it included \$1.5 billion in aid to western farmers. AIDA was put in place to assist producers whose incomes dropped precipitously for whatever reason, be it low prices, drought or excess rain.

I assure the honourable senator and all honourable senators that the Minister of Agriculture is looking at every possible way in which modify existing programs to provide assistance as soon as possible.

Senator Andreychuk: Honourable senators, the point is that we cannot wait for variations of existing programs. We need an immediate injection of cash because these farmers are leaving their farms. Businesses are starting to close. Farm machinery and implement dealers are going out of business. They are laying off people daily. While we tinker with the edges of these other programs, the survival of the economy of Western Canada is in jeopardy. We need an injection of cash now, and then we need some forward planning for long-term stabilization programs that make sense for Western Canada.

• (1540)

Senator Graham: I assure the honourable senator that the Minister of Agriculture is very aware of the problem. As I said, he is consulting with the farmers and with his provincial counterparts.

SOLICITOR GENERAL

1999 LA FRANCOPHONIE SUMMIT IN
MONCTON, NEW BRUNSWICK—RESPONSIBILITY FOR SECURITY

Hon. Brenda M. Robertson: Honourable senators, as most of you know, we are privileged to have the Francophonie summit meeting in Moncton this fall. We are all very excited about that. Great preparations are being made. It will mean a tremendous financial boost to the community.

Can the Leader of the Government in the Senate advise whether or not the RCMP will be in complete control of all security at the Francophonie summit? I have seen numbers which indicate that over 1,000 RCMP will be present.

Forty-two countries will be attending, and 12 are dictatorships. Has the government changed its position on the carrying of arms by all these countries?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I know that very special preparations are being made for the Francophonie summit in New Brunswick. I am not aware that any changes since the APEC summit with the special arrangements that have been in force with respect to security provided for individual heads of state. I am not aware of

any changes from I do know that some visitors from other countries come with their own security forces.

I would be very happy to make the appropriate inquiries and bring forward a more complete answer as soon as possible.

INTERNATIONAL TRADE

AGREEMENT BETWEEN CANADA AND THE UNITED STATES
ON PERIODICALS—DEPARTMENTAL RESPONSIBILITY
FOR OVERSIGHT

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to continue on the subject of the Investment Canada Act and particularly the announcement by the Prime Minister that, as a result of the agreement with the Americans on Bill C-55, the review provisions in the act regarding cultural industry would be transferred to the Department of Canadian Heritage. This would result in two departments being responsible for the review process, cultural activities being the responsibility of Heritage Canada and any other subjects being the responsibility of Industry Canada.

The minister told us the Prime Minister can effect this change through an Order in Council without an amendment to the act. I questioned that yesterday, and I question it again today since, after reviewing the act, I have found nothing which would allow the government to split those responsibilities through Order in Council.

Has the minister himself gone back to his research or allowed some research to take place to contradict my affirmation?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, under the Public Service Rearrangement and Transfer of Duties Act, the government has the authority to transfer or divide duties under federal acts. The authority to review and approve foreign investments in the cultural sector, as I indicated, will be transferred to the Minister of Canadian Heritage by way of an Order in Council.

I did do a little research, honourable senators. I went to the Revised Statutes of Canada 1985 concerning the machinery of government. You will find in Chapter P-34 that it states:

2. The Governor in Council may

(a) transfer any powers, duties or functions or the control or supervision of any portion of the public service from one minister to another, or from one department or portion of the public service to another; or

(b) amalgamate and combine any two or more departments under one minister and under one deputy minister.

Section 3 has to do with substituting a minister or department. It says:

3. Where under this Act, or any other lawful authority, any power, duty or function, or the control or supervision of any portion of the public service, is transferred from one minister to another, or from one department or portion of the public service to another, the minister, department or portion of the public service to whom or which the power, duty, function, control or supervision is transferred, and the appropriate officers of that department or portion of the public service, shall, in relation thereto, be substituted for and have and carry out the respective powers and duties that formerly belonged to or were to be carried out by the minister, department or portion of the public service and the respective officers of the department or portion of the public service from whom or which the power, duty, function, control or supervision is so transferred.

That is under the Public Service Rearrangement and Transfer of Duties Act.

Senator Lynch-Staunton: That is very helpful but also very disturbing. It sounds as if at one time Parliament passed an act saying that no matter what Parliament's intentions, government can rearrange those intentions the way it feels. Is that what I am hearing?

This is very helpful. I hope we will get copies of that so we can continue the discussion. Can the leader tell us what year the act he quoted was passed?

Senator Graham: Honourable senators, it is in the Revised Statutes of Canada, 1985. I do not have it in both official languages, but I would be happy to provide copies to all honourable senators.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators could the minister tell us how many PYs are expected to be transferred from Industry Canada to Heritage Canada pursuant to the transfer of responsibilities to which he has alluded? As well, will new departmental realignment legislation be introduced, which usually follows the interim change which occurs pursuant to the reassignment provisions to which he has alluded?

Senator Graham: Honourable senators, I am not aware of any realignment or transfer of jobs at the present time, but I shall look into this particular matter, seek further counsel, and bring forth any information that may be available.

Hon. Lowell Murray: Honourable senators, it seems here that one minister is responsible for an act, the Investment Canada Act. The government is purporting to take one part of that act away from the responsibility of that minister and transfer it to the responsibility of another minister. I do not say this is without precedent, but it is extraordinary.

Leaving that aside for the moment, may I ask how the government defines "cultural sector" for the purposes of this transfer of authority from the Minister of Industry to the Minister of Canadian Heritage?

• (1550)

Senator Graham: Honourable senators, I do not know that it is necessary to provide that kind of definition specifically for the purposes of Bill C-55. I researched my answer to the inquiries that were made by the Leader of the Opposition to determine under what authority the transfer was being made. I now have the Revised Statutes of Canada for 1985, and, as I said, authority is provided in the Public Service Rearrangement and Transfer of Duties Act.

Senator Murray: Honourable senators, I do not wish to get into an argument with the minister but I am sure he will find that it will be necessary to define what is meant by "the cultural sector." There will be some confusion, and perhaps even some dispute, outside and inside government, as to by what minister a particular transaction should be reviewed.

May I ask the minister one final question? Have any changes been made, or are any contemplated, in the regulations under the Investment Canada Act pursuant to the agreement between Canada and the United States?

Senator Graham: Honourable senators, I am not aware of any regulations that are contemplated at the present time, but, again, I would be very happy to review the situation and bring forward a more complete answer. What I was saying, in response to Senator Murray's question, was that the information he was seeking was not necessary to the passage of Bill C-55.

I understand the road he is following and the point he is trying to make, and I shall be very happy to seek further clarification.

Senator Murray: Yes, honourable senators, the regulation that I have in mind in particular is the regulation that was passed pursuant to the O'Callaghan-Tassé report in 1993, under the government of Prime Minister Campbell and signed by the then minister of industry, the Honourable Jean Charest.

Senator Lynch-Staunton: Honourable senators, perhaps the authority is there, but I wish we had been told all this about the agreements before we passed the bill, rather than after the fact.

My question is: What happens in the case of an industry which is being reviewed and which is partly in the cultural sector and partly in the non-cultural sector? That is something that would not be unusual. We are reading now that a large tobacco company or holding company is thinking of disposing of its drugstore chain which has a cultural content to it because it sells magazines and books. Who will take the decision? Will it be a shared decision? Has anyone thought of that? This is not picked out of the air. The answer to Senator Murray was, "We have not defined cultural sector yet." Senator Murray is quite right in asking, "What does the government mean by cultural sector and how can you precisely segregate it from the non-cultural sector?"

Senator Graham: Honourable senators, as I indicated on an earlier occasion, prior to the transfer of responsibilities, there was a shared responsibility between the Minister of Canadian Heritage and the Minister of Industry, in the sense that the Minister of Canadian Heritage was to make an assessment for the Minister of Industry before a decision was made. In that sense, there was a shared responsibility. I shall seek further clarification for both the Leader of the Opposition and for Senator Murray.

Senator Lynch-Staunton: I ask the minister not to say that there were shared responsibilities between the ministers. Ministers were consulted, and quite rightly so, on industries which came under their immediate purview, but there was only one decision-maker and that, so far, is the Minister of Industry.

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, implement certain provisions of the budget tabled in Parliament on February 16, 1999;

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended:

- (a) on pages 10 to 12, by deleting Part 3; and
- (b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

Hon. Consiglio Di Nino: Honourable senators, I have a few comments to make today in relation to the issue of taxation. Through the marvels of modern word processing, it has come to my attention that our colleague Senator Moore mentioned the words “tax,” “taxation” and “taxpayer” no less than 23 times during his second reading presentation on this bill. This compares to 27 times in the speech given for the same purpose in the other place by the Parliamentary Secretary to the Minister of Finance. That is 60 references to tax in two speeches on taxation — but on a budget bill.

Clearly, this government has a keen interest in taxation — so keen, in fact, that, since coming to office, it has instituted some 40 tax hikes. Of late, the government has been claiming it will reduce taxes by \$16 billion over the next three years. However, they forgot to mention that they will also be overcharging

Canadians, through the Employment Insurance Fund, by exactly the same \$16 billion figure. In reality, therefore, the vaunted tax cuts are really nothing more than a verbal shell game, a game in which the loser, as usual, will be the average Canadian.

Honourable senators, I would think that high taxation is the bane of every Canadian’s existence: sales taxes, payroll taxes, property taxes, customs duties, excise taxes, taxes disguised as user fees, and the list goes on. According to the Fraser Institute, the average Canadian tax burden today is an unbelievable 49 per cent of income. That, honourable senators, is the average.

Tax Freedom Day is now some time in late June, almost two months later than it was three decades ago. Higher taxation hits less-affluent Canadians especially hard, because they do not have as much income to begin with. The government claims it reimburses those people through various tax credits, like the National Child Tax Benefit. However, does anyone really believe that these people ever come out on the positive end of the game of taking with the right hand while giving with the left?

The executive director of the Canadian Tax Foundation was quoted recently to the effect that if a person earning in the low \$20,000 range — and there are many Canadians in that position — should somehow manage to make an extra \$1,000 through overtime or a second job, he or she could easily find himself or herself in a 60 per cent tax bracket once all of the claw-backs on social benefits are taken into account. That is totally unacceptable.

Low-income earners are also hard hit by the government’s refusal to abolish the GST on reading materials. No matter what the Department of Finance says, taxing reading materials results in lower reading levels. People buy less because it costs more. There is nothing complicated about this; it is simple mathematics. In addition, honourable senators, removing the GST from reading material makes economic sense, and if government ministers would get out of their limousines and away from the bureaucrats, they would see this for themselves.

For six years now, the government has dragged its feet on this issue. They have been telling Canadians, “We are doing all we can. We are not sure that removing the GST is the best way of promoting literacy. We are unclear as to the exact definition of reading materials,” and on it goes — trivial objections following these ingenious remarks in an endless circle.

The government points to the different literacy programs it funds as proof of its commitment to a literate citizenry. I am sure these programs serve some purpose, but they are not the issue. The issue is honesty, credibility and integrity. Almost all of us in this chamber, at one time or another, have supported getting rid of this tax. Our friends across the aisle even made an election commitment to do so. Unfortunately, however, they have not seen their way to fulfilling this commitment. Until recently, however, they have lacked the intestinal fortitude to admit ever having made such a commitment.

Canadians had to wait until Senator Bryden, who was not even here when the GST was debated, agreed to take on the disagreeable task of doing his sort of public *mea culpa* for his party. In what he himself described as nothing less than a scintillating speech, the honourable senator, on behalf of his colleagues, admitted for the first time what everyone else knew, namely, that the Liberal Party opposed, and would continue to oppose, removing the GST on reading material. He did so graciously — at least I thought so. Never once did he mention the names of those of his colleagues who, logically, should have been standing in his place — those who have waxed eloquently from time to time on the subject but who now, instead, are demure, or have absented themselves from the chamber. It was not an edifying sight. If I had not had so much confidence in Senator Bryden's ability to take on such an unpleasant task with his usual forthright aplomb, I think I would have felt sorry for him.

• (1600)

Honourable senators, the average taxpayer in this country has been likened to a patient, covered with bandages, who is bleeding to death. Who can argue with this? The black market is flourishing in various sectors, cross-border shopping is a way of life, and Canadians are simply tired of losing an ever increasing portion of their hard-earned income to taxes.

Honourable senators, I read recently about a theory called the Wicksell equilibrium. It is named after a Swedish economist of the same name. The Wicksell theory holds that people are willing to pay taxes up to the value of public services they feel they will use during their life. However, if the amount of tax they must pay exceeds the value of the services that they think they will receive, then they begin to resist.

This leads to an underground economy in which, as I mentioned a moment ago, people begin to smuggle. They refuse to declare tips and gratuities, they ask to be paid in cash, and so on. I do not know for sure how many Canadians rationalize their tax burden this way, but there is a growing malaise over high taxation and the sheer extent of taxation in this country, and not just within the business community. I am sure that, everywhere we go, we have all seen that people are fed up with having their money siphoned off. They have had enough of watching others waste money on such things as canoe museums, and non-repayable grants to constituents of questionable character.

The question is: What will the government do about it? If the action of the Minister of Finance over the past few years is any indication, the answer is: Not much. I do not believe I am being uncharitable when I say that this government is not what anyone would characterize as dynamic or hard-working. Members of cabinet seem to float along from poll to poll. They do not appear to have any sort of mission, goal or reason to govern. They just enjoy holding office.

Honourable senators, it is no state secret that Mr. Chrétien is a great lover of leisure as well. Whenever time permits, he jets down to the United States and plays a few holes of golf with his

friend Mr. Clinton, or he goes skiing. We all recall how, not long ago, he went so far as to skip an important state occasion in order to get a few more hours in on the slopes.

While the Prime Minister and his government dither, far away from Parliament Hill, Canadians are saying, "We want lower taxes and we want less of them." The people of Ontario said just that, loudly and clearly, last week when they re-elected a Conservative government to its second majority. Did the people of New Brunswick not also send a strong message to Ottawa last Monday? The federal government is not listening, honourable senators. I suspect, honourable senators that the Liberal government will be given its own strong message from Canadians at the next possible opportunity.

Hon. Thelma J. Chalifoux (Acting Speaker): Honourable senators, if no other senator wishes to speak, I will proceed with the motion in amendment.

It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for third reading of Bill C-71, to implement certain provisions of the budget tabling Parliament on February 16, 1999:

In amendment, it was moved by the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the bill be not now read a third time but that it be amended —

An Hon. Senator: Dispense!

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Acting Speaker: Will those in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. the Acting Speaker: Please call in the senators.

Hon. Mabel M. DeWare: Honourable senators, pursuant to rule 67(1), I move that the vote be deferred, preferably to Monday at 5:00 p.m.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Therefore, the vote will be held on Monday, June 14, at 5:00 p.m.

**MERCHANT NAVY
WAR SERVICE RECOGNITION BILL**

SECOND READING—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Forrestall, seconded by the Honourable Senator Atkins, for the second reading of Bill S-19, to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment.—(Honourable Senator Carstairs)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I rise today to speak to Bill S-19, the Merchant Navy War Service Recognition Act, which Senator Forrestall introduced into this chamber last June. I share his concern that Canada's Merchant Navy veterans receive the recognition that is their due and the support of a grateful nation.

The contribution of Canada's Merchant Navy veterans was brought into sharp focus last year as we commemorated the fifty-fifth anniversary of the turning point of the Battle of the Atlantic. The victory in that battle was not signified by the number of U-boats destroyed or the number of Luftwaffe planes shot down; the true measure of achievement was the arrival of some 25,343 merchant ships in British ports after their perilous voyages across the North Atlantic. The victory is measured by 165 million tonnes of cargo delivered — supplies that sustained Britain in its darkest hours and made possible the liberation of Europe.

These merchant sailors often served in highly flammable tankers or in freighters loaded with ammunition. They knew that naval escorts could not protect all the approaches to a convoy, and that every crossing of the North Atlantic carried with it the risk of death in icy waters or flaming ships. Many of them had been torpedoed before and chose to sail again. Many had watched comrades die as other ships went down around them. Yet, voyage after voyage, these men determined to serve once more. They sailed and sailed again, taking chances and risking their lives.

I wish to point out to honourable senators that many of these heroes of the North Atlantic were very young — scarcely more than boys, and too young, in many cases, to enlist in the Armed Forces. Young as these sailors were then, they are now reaching the age where they need and require the care and assistance that a grateful nation can provide. Even the youngest members of that group are now in their 70s, many are in their 80s, and a few are in their 90s. As the preamble to Senator Forrestall's legislation reminds us, there is only a short time left to ensure their needs are met.

• (1610)

What care and assistance has Canada provided to its Merchant Navy veterans? It is a fact of our history that, in the years following the war, the veterans of the Merchant Navy were entitled to some, but certainly not all, of the Canadian government's benefits for veterans. The benefits that were not made available to Merchant Navy veterans arose from the belief of the government of the day that the sizeable merchant marine force that had participated in the war effort — which has continued to exist, and there are approximately 12,000 members — would have no need for demobilization benefits which had been designed to return over 1 million enlisted men and women to civilian careers.

Before looking at what the bill proposes, senators, let us recall what has been done over the past 36 years to close the gap in benefits between Merchant Navy and Armed Forces veterans.

In 1962, merchant mariners with 180 days of service, including at least one trip through dangerous waters, became eligible for a civilian version of the income-tested War Veterans Allowance.

In 1976, merchant seamen were included in the Compensation for Former Prisoners of War Act on the same basis and at the same rates as applied for Armed Forces veterans.

In 1992, with the passage of Bill C-84, the government accepted the principles of full recognition and an equality of eligibility for all currently available benefits.

On May 1, 1999, Bill C-61, which further solidified the rights of Merchant Navy veterans, came into force. I will return to that piece of legislation in a moment, but, first, let me turn to Senator Forrestall's bill.

I do have a very serious concern with clause 4 of Bill S-19. It would appear to invalidate any federal act that would make any provision for a financial or other benefit to war veterans of the Armed Forces of Canada unless the act makes provision for a like benefit to Merchant Navy war veterans or their dependants. The nature of this clause, as written, is extremely unclear. Does it apply to all future federal legislation granting benefits to veterans? Does it invalidate all existing legislation?

The text in French appears to cover both existing and future benefits, but the wording in the summary, in both French and English, suggests that the legislation would limit future but not existing legislation.

Honourable senators, if we pass this bill, the government could find itself in a position where all the current legislation applying to veterans would be declared legally invalid. That would halt the award of benefits to eligible veterans, including Merchant Navy veterans. In short, were this bill to become law, it could prove to be a time-consuming, extremely messy and, frankly, unnecessary piece of legislation which might adversely affect the veterans it is intended to help.

In addition, were honourable senators to adopt the definition of "Merchant Navy veteran" proposed in this bill, we would be extending veterans' benefits to essentially everyone who worked on a Canadian ship in wartime. For example, the crew of a ship sailing from Halifax to Montreal during the Korean War would qualify as a Korean War veteran under Bill S-19, but that is not my idea of what veterans' legislation was intended to do.

Over and above these concerns, I believe the passage of Bill C-61 has made Bill S-19 largely redundant. Bill C-61 was an omnibus bill which accomplished, I believe, the very intent of Senator Forrestall's bill. It came into force this May 1. Among other things, Bill C-61 transferred the Merchant Navy veteran legislative provisions from the former Merchant Navy Veteran and Civilian War-Related Benefits Act into the War Veterans Allowance Act and the Pension Act. In fact, many of the provisions affecting Merchant Navy status are technical ones, repealing some parts of one act, transferring other provisions, amending and extending definitions, all with the same goal — to bring Merchant Navy veterans under the same legislation as their service comrades. These changes came about after extensive consultations with the Merchant Navy Coalition. I wish to emphasize, however, that the bill was largely symbolic, since the 1992 legislation effectively gave Merchant Navy veterans the same access to programs and benefits.

What Bill C-61 did, among other things, was to give formal statute recognition to equality of access, and symbols are important, especially to those affected. It was important to our merchant seamen to have such recognition.

Honourable senators, in short, I believe Bill C-61 accomplished the legislative remedies sought by Bill S-19. I wish to congratulate Senator Forrestall because I think it was the very introduction of Bill S-19 that spurred the government into action on Bill C-61.

This leaves only one consideration, and that is the effort in Bill S-19 to legislate how commemorative ceremonies are organized. With all due respect to Senator Forrestall, I do not believe that Parliament should be passing laws telling veterans' organizations how their ceremonies should be organized, and I could not support that.

Honourable senators, the passage of Bill C-61 has made Bill S-19 redundant, save for its commemorative provisions which, as I mentioned, I do not believe should be part of the law of the land. As also mentioned, the ambiguity about whether Bill S-19 would invalidate all current legislation could adversely affect the very veterans it is intended to help.

For these reasons, I recommend that this chamber vote against the bill before us at second reading. At the same time, I encourage senators to join me in commending the underlying values and messages of the bill — the recognition of the enormous contributions that Merchant Navy veterans have made in the defence of the freedom we all cherish. I again congratulate Senator Forrestall for bringing forward this bill which led to the introduction of Bill C-61 in the other place.

The Hon. the Speaker: If no other honourable senator wishes to speak, is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen.

The Hon. the Speaker: Call in the senators.

Hon. Mabel M. DeWare: Honourable senators, I would suggest that we defer the vote to Monday next at 5:30 p.m.

Senator Carstairs: I suggest the vote be deferred to immediately after the other vote so we do not have to call senators back to the chamber several times.

The Hon. the Speaker: Is it agreed, honourable senators, that the vote be deferred to immediately following the previous vote that was deferred to Monday?

Hon. Senators: Agreed.

PRIVILEGES, STANDING RULES AND ORDERS

CONSIDERATION OF ELEVENTH REPORT OF COMMITTEE—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Fitzpatrick, for the adoption of the eleventh report of the Standing Committee on Privileges, Standing Rules and Orders (restructuring of Senate committees) presented in the Senate on June 2, 1999.—(Honourable Senator Lawson)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, debate on this report has been adjourned in the name of Senator Lawson. I wish to speak to this report, but I should like to leave the adjournment in the name of Senator Lawson.

The Hon. the Speaker: Is it agreed, honourable senators, that if the Honourable Senator Carstairs speaks now, the matter will remain standing in the name of Senator Lawson?

Hon. Senators: Agreed.

Senator Carstairs: Honourable senators, I rise today because I think it is very important that some of the confusion with respect to this report — or reports, as the case might be — should be clarified.

Let me begin by being very clear about the provisions contained in the *Rules of the Senate*. The *Rules of the Senate* currently provide that any senator may attend any committee. Every senator, whether or not a member, can receive all information distributed to members, and can ask questions and participate in debate in any committee. These privileges are open to all senators, whatever their designation, and are not dependent upon that senator being a member of the committee in question.

• (1620)

However, at the beginning of each session of Parliament the rules provide that a Committee of Selection be established by the Senate. This committee is comprised of nine members. By custom, five usually come from the majority side and four from the minority.

After the committee is struck by a motion of the Senate, the committee meets to select the 12 or 14 members of the standing committees of the Senate. The only additional privileges these members, so selected, have from a senator who is a non-member, is that they can vote in committee and they can move motions.

Again by custom, but not by rule, the standing committees have seven majority members and five minority members in the case of a 12-person committee, and a split of nine and six in a 15-member committee.

It must be made clear from whence these lists of members derive. The whips, in consultation with the leaders and deputy leaders, canvass their members as to which committees they would like to sit on.

I cannot speak for the other side. However, I will tell you that Liberal senators are asked to indicate their top three or four choices. In choosing the committee membership, the following factors are considered by the leadership: seniority of the member of the Senate, the length of service that senator has had in this chamber, and that senator's attendance.

Attendance at committees is as important as attendance in this chamber. If a senator is only willing to attend 25 per cent of committee sittings, then my decision and the decision of other members of our leadership team would be that we would prefer to have a senator on the committee who would be willing to sit 90 to 100 per cent of the time.

We also want to balance regional representation. We wish to ensure that all four — and Senator Fitzpatrick would quickly say five — regions of Canada are represented. I also have a certain bias toward gender balance.

The current session began in September 1997. Prior to the meeting of the Committee of Selection, it became clear that there was no real process by which an independent member could

indicate his or her desire for committee membership. There were three independent senators at that time.

Senator Pitfield and Senator Lawson did not indicate a desire to sit on any committee. However, Senator Prud'homme indicated that he would like to sit on the Foreign Affairs Committee and on the Legal and Constitutional Affairs Committee. However, in both instances, as far as my side is concerned, and I suspect the same is true for the other side, these committees were oversubscribed.

A total of 17 Liberals had asked to sit on the Foreign Affairs Committee. The Liberal leadership had to say "no" to 10 of our colleagues. The Legal and Constitutional Affairs Committee had 12 Liberal senators who made application to sit on that committee. The liberal leadership had to say "no" to five of them.

Eleven Liberal senators wished to sit on the Banking Committee, and we had to say "no" to four. Thirteen senators wish to sit on the Social Affairs Committee, and we had to say "no" to six, and so forth.

I know that a similar problem existed on the other side, however, I do not know their numbers.

In order to say "yes" to Senator Prud'homme, either the majority side or the minority side would have had to have given up one of their members. Senator Prud'homme knows well that there was not a willingness to do this on either side. There was, however, a willingness to find a solution, and the matter was referred to the Rules Committee for study and recommendation. The ninth and the eleventh reports were the result of this study.

Honourable senators, in our desire to solve this problem as quickly as we possibly could, the ninth report was tabled. However, it quickly became clear that the ninth report conferred a special status on independent senators not afforded to any other senator.

Senator Roche, in his remarks yesterday, indicated that he did not want special status, he wanted equal status. However, the rules do not provide for Liberal members of the committee or Progressive Conservative members of the committee, they provide for senators to sit on committees. That is why, in the eleventh report, the reference to "independent senators" has been removed, so that all senators are to be considered for membership on the committee and their designation, whether they sit as a Liberal or whether they sit as a Progressive Conservative or whether they sit as an independent should not be relevant.

What the report does is allow for two additional members to be added. Clearly, the rule would be used primarily, but not necessarily, to add an independent senator and, at the same time, to add a majority senator. This would maintain the voting difference of two. For example, the 12-member committees, with a seven-to-five ratio, could be increased to 14, with an eight-to-six ratio.

Honourable senators, one of the difficulties some senators see in the new rule is that it would have to be a unanimous recommendation of the Committee of Selection. This is fair. I wish to be fair to independent senators, but I also want to be fair to my own colleagues on this side of the house.

If we have used seniority, attendance, regional representation and gender balance to exclude our own members, surely it is fair to judge the independent senators by the same criteria. Should a new senator with a few months' seniority be given preference to sit on an oversubscribed committee over other long-serving senators simply because he or she is an independent?

I would remind honourable senators that, although this rule would be unanimous for the Selection Committee, it would have no such requirement in the Senate. Any committee's report can be challenged, debated and amended.

In addition, this committee report we are currently debating recommends the establishment of two new committees, a committee on defence and security and a committee on human rights. These would be established and would be guided by a sunset clause. The reason for this, honourable senators, is to determine the level of interest and the scope of these committees before they are carved in stone.

The other recommendation contained in this report is a very innovative one. I wish to congratulate Senator Kenny for his contribution to this recommendation. His suggestion provides for flexibility in the numbers, depending on the interest of senators.

A normal committee would have 12 members. However, if only six, eight or ten senators were interested in being members of a particular committee, the Committee of Selection could establish the membership at a number less than 12. This would, once again, require unanimity and could be overruled in the chamber.

Honourable senators, the Rules Committee has worked diligently on this report. I congratulate them on their work. I recommend that we try these changes. If they do not work, then the Rules Committee will go back to the drawing board. However, I am convinced they will work. There is willingness in this chamber on both sides to see to it that independent members can sit on committees. They may not necessarily sit on their first choice of committee, because very few senators do, but they certainly should have an opportunity to sit on some of the committees they choose.

I believe that independent senators will remain, as they have in the past, full and participating members of the Senate and its committees.

The other day Senator Roche spoke, interestingly enough, of a committee in 1958 in which an independent senator was the chair. That happened to be a time in which my father was sitting in the Senate and I wanted, about a year ago, to review his participation on committees. I pulled out all the committee memberships, including those he had sat on. I must say that I was shocked to learn that the Banking Committee had 50 members, 30 of whom were with the majority Liberals, and 20 of whom

were from the minority party. As a result, there was no problem with having an independent senator as a member of a committee or even electing that senator to be the chair.

On the Transport Committee to which Senator Roche referred, there were 30 members, and the split was 20 to 10. Again, that made it easier.

• (1630)

The requirement that is blocking us at the present time and which we must change is the requirement that committees have only 12 members, and the split is seven and five. To be quite candid, this side will not give up their two-person majority, and I do not believe that the other side will give up one of their five members. We tried to create, with the suggestion of having two additional members, the possibility for independent members to sit on committees.

Hon. Colin Kenny: Honourable senators, I rise to ask a question of the Deputy Leader of the Government in the Senate.

I appreciated her description of the report. However, I would like to know the reasoning for requiring unanimity in the Committee of Selection. What is wrong with a simple majority on the Committee of Selection as it relates to independent senators? It seems to me a simple majority is all that is required when considering other matters. Why should a simple majority not be sufficient in this case?

Senator Carstairs: Honourable senators, all members of the committee know that, in the work of this particular committee, we tried many solutions to our problem. The compromise was the unanimous recommendation of the committee.

Hon. John B. Stewart: Honourable senators, I also have a question for the Honourable Senator Carstairs.

If I heard Senator Carstairs accurately, she said that any senator can receive material made available to the members of a committee. That sounds good, but there may be practical problems. I am hoping she can help me with them.

The Standing Senate Committee on Foreign Affairs, in its current reference, must look at a great deal of material coming out from day to day regarding peacekeeping. We try to get this material into the hands of committee members just as soon as we can so that they will be prepared for the work of the committee at its next sitting.

The problem is that I do not know exactly which senators who are not members of the committee will attend, because there is great interest in the work of the committee. Is Senator Carstairs telling me, and the house, that all that material should be circulated to every senator?

Senator Carstairs: I thank Honourable Senator Stewart for his question. The answer is no. I wished to convey in my answer that any senator who wished to have access could get in touch with the clerk of that committee, and the clerk of the committee would distribute that information to that senator.

Senator Stewart: Thank you very much.

Hon. Douglas Roche: Honourable senators, I also have a question for the Honourable Senator Carstairs.

Before posing my question to the Deputy Leader of the Government, I would state my appreciation of her statement. At no moment did I doubt whatsoever her desire and the desire of the Senate as a whole to be fair on this question.

Senator Carstairs began, with almost her first word, to refer to a certain confusion in this matter. For my part, I may have contributed to the confusion yesterday, and I regret that. There was a lack of understanding about the background of the issue, but that has now become more clear.

I echo Senator Carstairs' comment that I seek nothing more than any other senator. When I arrived here, I was informed that independent senators could not be official members of committees. I sense that she is probably agreeing with that, and that has added to a sense of confusion.

I am happy to take my chances in submitting an application to a committee with all other senators now that it is clearly on the record that Senator Carstairs, on behalf of the government, has said that there is a willingness that independent senators can sit as full members of committees. I take that to be an important statement, and it puts my mind to rest. I sense that we are coming together on this.

I now turn to my question, honourable senators. It deals with the question of unanimity contained in the eleventh report of the committee. That is to say, if this report is adopted, the Committee of Selection may name two additional members, which is, in the spirit of this, based on the statement that will be printed in the *Debates of the Senate* as a precedent, that there is a willingness for independent members to be chosen. That will require unanimity.

Is that the case with the naming of any other senator? Must they be chosen unanimously in the Selection Committee?

Finally, if unanimity is to stand with respect to the decision of the Committee of Selection, does that not give any single member of the Selection Committee a veto over any candidate whom that person may or may not have some personal feeling about? I am trying to take this beyond personalities to ensure that everyone will be on an equal basis. Those are my questions.

Senator Carstairs: Honourable senators, another little problem exists and we have not addressed it. The Selection Committee only meets once per session of Parliament to choose these members. If any vacancy exists after that, the only way the vacancy can be filled is by the whip of the majority or the whip of the minority.

Unless you are an independent senator at the time that the session begins, presently there is no way at to put an independent senator on the committee. That is where I think the confusion arose with respect to an independent senator not being able to be

a member of a committee. The window of opportunity for an independent senator under our current rules passed in 1991 — which I thank God I was not here to have produced — allows only for substitutions by the whips. We must yet deal with that problem.

As to the unanimity of the Selection Committee, as it currently operates, the committee virtually always is unanimous in its decisions. The minority party produces its list with which the majority party does not disagree. The majority party produces its lists with which the minority party does not disagree. It does not say in the rules that it must be unanimous but, in custom, it is clearly a unanimous decision.

The final question of the honourable senator was whether a senator could be blackballed in this particular process? Let us call a spade a spade. That is why there must be recourse to the Senate as a whole. That is why, as with any committee report, the committee report of the Selection Committee could be overturned by the Senate.

The Hon. the Speaker: Honourable senators, the time for the speech and the questions elapsed. Is leave granted to continue?

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I shall be participating in the debate. I find it extraordinary that there is suddenly some progress. I have been calling for this for six years. Perhaps it is the arrival of Senators Wilson and Roche that has brought on the change. Perhaps I could have changed my name, who knows! In my speech, I shall be hard and implacable. I wonder if the problem lay with Prud'homme or with the principle I was seeking to defend.

You have spoken of "seniority and attendance." I am fine with that. "Regional gender," most certainly! I have founded some 15 parliamentary associations and I would be the first one to say that women are needed! We have just created the Canada-Brazil Association, and it has 5 women members out of 15. Everywhere I go, I believe in "gender, gender, gender."

There is another thing, however, called "experience." You have not mentioned it at all. You speak of "seniority" and "attendance." Are you going to consider experience as one of the criteria. That is my first question.

Second, with all due respect — since I know you have done everything possible to be kind — I have never received any official letter. I was asked, just like that, in the corridor, what I would choose. I never wrote a letter, nor received one. Just jokingly, since it is not serious, I said: "That's easy: External Affairs, External Affairs, and External Affairs." They found that funny, too.

Then I made a little concession, since I also like Legal and Constitutional Affairs, or rather its chair, very much. But that was never official. I will tell you why I have survived in politics. I do not negotiate behind the scenes. I have always negotiated in public.

Will experience be one of the additional criteria? I share Senator Roche's opinion on that. With my 36 years of experience I have concerns about someone boycotting and saying "Over my dead body!" I have heard enough of that over the past six years. I also thank Senator Kenny for emphasizing the matter of unanimity.

Finally, the ninth report was tabled. I am not allowed to reveal it, I am told. The committee sat *in camera*. You know very well that only one senator was opposed. Yesterday, we voted on the motion to adjourn debate on the ninth report and some people changed their minds. They are certainly entitled to. But some wanted this ninth report approved. Yes, or no? You were there. So was I. One Progressive Conservative senator, whom I will not name out of courtesy, voted against.

I thank Senator Stewart, who has always been extremely kind to me and who knows of my 35-year interest in foreign affairs. He sends me all the documents on the Standing Committee on Foreign Affairs. I thank him for his courtesy.

Everything else I have to say, I will say in my speech, which some people will obviously not like, but I have said all I have to say. I am waiting for some clarification, but it is not forthcoming.

[English]

Senator Carstairs: Let me first indicate that the work of the Standing Committee on Privileges, Standing Rules and Orders, of which I am an *ex officio* member, began on this study long before the appointment of Senator Roche and Senator Wilson, with the greatest of respect to those two senators. The work of this committee began because, after the last meeting of the Committee of Selection, senators on both sides of this chamber were concerned about how we could make it possible for an independent senator to become a member of a committee. It had nothing to do with the appointment of two additional independent senators.

Second, with regard to seniority, it may be that experience is not part of seniority, but it has been my experience that seniority in this chamber does provide senators with experience. Therefore, our side is not excluding the word "experience." I must confess that I was including both the word "seniority" and the word "experience" in seniority.

I was not present the day the ninth report was adopted, despite what the senator has put on the record. As I understand it, the report was adopted. However, we gave it some sober second thought, as this chamber is famous for doing, and as a result of the sober second thought it was determined that independent senators should not be singled out in the rules since no other designated senator was so treated.

Senator Roche made much of his designation yesterday. He was quite correct. He has a designation which stipulates that he sits as an independent senator. I quite proudly sit as a Liberal senator and Senator Grimard, equally proudly, I suspect, sits as a Progressive Conservative senator. However, there is no reference in the rules to the designation of a Progressive Conservative

senator or a Liberal senator. Therefore, the Rules Committee believed that it was inappropriate for there to be a reference to an independent senator.

Senator Prud'homme: My last question is just for the purpose of making a correction.

[Translation]

You may not have been there for the vote, but I rely on the printed word.

[English]

The minutes of the proceedings for Tuesday, March 29, indicate that the members of the committee present were the Honourable Senators Beaudoin, Carstairs, Chalifoux, Cools, DeWare, Fraser, Gill, Hervieux-Payette, Joyal, Kenny, Maheu, Robertson, Robichaud — although I do not know which one — and Rossiter. Other senators present were the Honourable Senators Atkins, Grafstein and Prud'homme.

The question was put. The "yeas" were five and the "nays" were seven. That is when Senator Kenny said to put everything on the table. Thereafter, a final vote on the ninth report was taken, the motion having been moved by Senator Kenny. It was agreed to, on a show of hands, with eight in favour, one opposed, and no abstentions.

Senator Carstairs: I was not present.

[Translation]

Senator Prud'homme: So we were both right.

[English]

For attendance, I must go by what is indicated here. The names of those who voted are not listed, but I know who voted. Only one voted against, and that was the former chair of the Rules Committee, who agonized for four years about what to do with independent senators.

[Translation]

The Hon. the Speaker: I was not there for the vote, Senator Prud'homme.

Senator Prud'homme: You were at the meeting. Am I lying to the Senate by saying that you were there when you say you were not? You were on the committee. Can we at least agree on that?

[English]

Senator Carstairs: If the minutes say I was present, I was present, but I did not vote. I had left the meeting by the time the vote was taken.

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order.

Honourable senators, I notice that the Chair has been pressuring the previous speaker to put the question. Rule 37(4) reads:

Except as provided in sections (2) and (3) above, no Senator shall speak for more than fifteen minutes, inclusive of any questions or comments from other Senators which the Senator may permit in the course of his or her remarks.

I would ask His Honour to clarify that matter. Is this period exclusive to questions or, indeed, as the rule book reads, questions or comments? This is not the first time I have noticed these kinds of interventions.

• (1650)

The Hon. the Speaker: The Honourable Senator Corbin is quite correct, that is how the rule reads, however, I must tell him that I have an immense problem with that rule.

In this particular case, both Senator Prud'homme and Senator Roche have already exhausted their right to speak. Both of the honourable senators have already spoken on this matter. I cannot accept that they — if I follow the rules — have a second opportunity to speak, because the rule says that a senator shall only speak once on a matter. Therefore, we are back to the point where the rules require a severe and drastic review, because we are here faced with a conflict: Which rule do I follow? Do I interpret the rule to mean that comments are excepted, or do I interpret it to mean that a senator can only speak once on an issue? That is my difficulty.

I realize that I have not answered Senator Corbin's question, but there can be no answer to it until such time as the rules are straightened out.

Senator Corbin: Perhaps His Honour would allow me to ask a question. I do wish to be polite, courteous and show respect for the position he holds. Is it not a fact that, if we do extend the time provided for a senator to make his remarks beyond 15 minutes, we also extend the privilege accorded to senators to ask questions or to make comments as well?

The Hon. the Speaker: There is no problem with questions, which is why I ask: Is it a question? I repeat, that in this particular case, if it is not a question on the part of Senator Prud'homme and Senator Roche, they are breaking another rule in that they are speaking twice on the same matter. That is the difficulty in which I find myself.

Senator Corbin: Questions are also speeches.

The Hon. the Speaker: That is why I must ask: Is it a question? Otherwise they are in contravention of the rules; they are speaking twice on the same subject.

Senator Corbin: Who wrote those rules anyway?

Hon. Lois Wilson: Honourable senators, I will ask a question.

I appreciate the statement of the Honourable Senator Carstairs. I was surprised that the honourable senator equated seniority with experience. That might be an equivalent of experience in

procedure and precedents in the Senate, but not necessarily in the subject-matter.

My question is: Would the honourable senator accept a broader criteria, one that goes beyond equating seniority with experience? There is such a thing as expertise in the subject-matter which may or may not be present in the seniority criteria. How long would we try this out? At what stage do we determine if it is working, or do we wait for complaints?

Senator Carstairs: All four categories were categories that we as a leadership put together in order to examine and determine whether a particular would sit on a particular committee. That has nothing to do with the evaluation made by the Committee of Selection. I was trying to give a fulsome explanation of how the Committee of Selection works because there were questions raised the other day that, quite frankly, made it clear that it was not working well. Those are just some of the factors that are taken into consideration.

As to a broader definition, if a person has experience, as does Senator Stewart, I must tell you that I would be hung, drawn and quartered in my caucus if I proposed that Senator Stewart not be a member of the Standing Senate Committee on Foreign Affairs. It would be intolerable. I simply would not get away with that and I would certainly not recommend it to my partners in the leadership.

I believe Senator Wilson had a second question.

Senator Wilson: How long will it be before we evaluate whether it is working?

Senator Carstairs: I do not know when this government will prorogue. I am not sure they know either, but I think bets are pretty good that we will start a new session next fall. We will know in very short order whether this rule is working. If no independent senators find their way onto committees of this chamber, then it would be my immediate recommendation that the Rules Committee immediately take a look at this again.

The Hon. the Speaker: Honourable senators, is it agreed that this matter stand in the name of the Honourable Senator Lawson.

Hon. Senators: Agreed.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before we proceed to the next item, I should like to introduce to you some guests in the gallery. We have a delegation from the Nisga'a Tribal Council. They are led by Dr. Joseph Gosnell, President of the Nisga'a Tribal Council, who is accompanied by Mr. Nelson Leeson, Mr. Edmond Wright, Mr. Harry Nice and Mr. Jim Aldridge.

These distinguished visitors are the guests of the Honourable Senator Prud'homme and, on behalf of all honourable senators, I wish you welcome here to the Senate of Canada.

[Translation]

INTERNATIONAL POSITION IN COMMUNICATIONS

CONSIDERATION OF REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the report by the Subcommittee on Communications of the Standing Senate Committee on Transport and Communications entitled "Wired to win! Canada's positioning within the world technological revolution" tabled with the Clerk of the Senate on May 28, 1999.

Hon. Marie-P. Poulin: Honourable senators I am proud to speak to you today of the final report of the Subcommittee on Communications entitled "Wired to win."

The committee's initial report, tabled in April 1997, concerned Canada's competitive position in communications. Its conclusion was that Canada is in a good position to support technological competition in the international market place largely because of our talent here in Canada, our entrepreneurial spirit, our solid telecommunications infrastructure and our willingness to relax our trade regulations.

Today's report, "Wired to win," concerns Canada's positioning within the world technological revolution. I say positioning rather than position, because there is no state or fixed point from which one may consider to be in a position to be effectively competitive.

The telecommunications industry and related technology are constantly changing. There is nothing static about them. The industry, like government, must constantly adjust to changes in events, repositioning both at home and abroad.

As the chair of the Subcommittee on Communications, which did the preliminary studies, heard witnesses, gathered research, I can bear witness the complexity and the magic of the new media and of the complexities of the industry itself. On the one hand, there are the Internet and World Wide Web, which have changed the way we communicate, do our research, shop and entertain ourselves.

On the other hand, there is the whole commercial aspect of telecommunications, electricity, traditional broadcasters trying to establish a niche in a new and competitive environment. Not long ago, the various services operated independently one of the other. Now they converge and form strategic alliances. In short, they seek to carve out for themselves an advantageous position as distributors of an integrated service, including both the traditional and the new-style media.

At the same time, the creators of the new media are developing products aimed at a world clientele. This is not at all the way things were a few years ago. Let us remember that the Internet and the World Wide Web are just in their infancy. The

huge impact that they are making in our lives, unlike any other invention in the history of humanity, dates back only a few years.

Putting it into perspective, radio took close to 30 years, and television 13, to reach 50 million households worldwide, while the Web took only 4.

I am giving you these figures in order to emphasize the enormous impact of the technology revolution and the various forces that are at play.

[English]

Honourable senators, at the outset, I expressed pride in tabling this report. The pride comes from the fact that we here in the Senate took a leadership role in studying an issue of such profound magnitude as the information age. Satisfaction comes from the firm belief that we as parliamentarians are weighing with appropriate openness, seriousness and efficiency the implications of the technological revolution.

I have equal pride in being associated with the dedicated members of the subcommittee from both sides of this chamber: Senator Bacon, Senator Johnson, Senator Maheu, and the Deputy Chair, Senator Spivak. Their commitment and involvement in this important subject-matter is to be lauded.

Having said that, I must with equal fervour pay tribute to the men and women who appeared at our hearings to provide expert testimony. Without their input, this study would not have been possible. The subcommittee heard from scores of these experts, both in committee and on our fact-finding missions. The number is too high for me to name them individually, but my appreciation goes out to them for the time and effort they took in preparing submissions, answering questions, and, in some cases, providing follow-up information.

They basically educated the subcommittee on the inner workings of the telecommunications industry, the technologies that have been and are being developed, and the likely trends in the future. They gave us food for thought on the role the government might play in terms of promoting a spirit of competitiveness, and their input helped us frame potential policies and objectives that will showcase Canada to the world.

You will find in this report some two score recommendations that reflect the exhaustive range of topics that the witnesses brought to our attention. I extend to them the subcommittee's gratitude.

In closing, I thank the subcommittee's researchers, writers and consultants, the committee clerks, the staff, and the translators for their dedication and hard work. Together, they ensured that proceedings went smoothly. They offered ideas for building on the testimony of witnesses, and they distilled complicated subject-matter into cogent and digestible form. My thanks go out to all of them.

Honourable senators, a personal letter was sent to every one of you this week. It accompanied the subcommittee's first report, "Wired to Win: Canada's International Competitive Position" in Communications, as well as the second report, "Wired to Win: Canada's Positioning Within the World's Technological Revolution." An executive summary focuses on the 12 recommendations and completes the package. I invite you to add it to your summer reading choices.

On motion of Senator Kenny, for Senator Spivak, debate adjourned.

STATE OF FINANCIAL SYSTEM

CONSIDERATION OF INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON STUDY—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the sixteenth report (Interim) of the Standing Senate Committee on Banking, Trade and Commerce entitled: "The Governance Practices of Institutional Investors," tabled in the Senate on November 19, 1998.—(Honourable Senator Meighen)

Hon. Michael A. Meighen: Honourable senators, in speaking to the governance practices of institutional investors, I propose to discuss this evening the findings of the committee dealing simply with the issues of governance and of institutional activism. It is a daunting but possible task, given the fact that my honourable colleague Senator Oliver, following his wide-ranging speech on the topic a number of weeks ago, did graciously leave a few crumbs on the table.

Honourable senators, to illustrate the importance of corporate governance to a nation's well-being, some believe that deregulation of Japan's financial markets, or what is commonly known as the "Big Bang," is in fact secondary to the challenge of maintaining Japan's high level of per capita income in the face of an ageing population and slowing productivity growth. The solution to this greater challenge is said to rest with improving the corporate governance system in Japan, and thereby increasing the return on wealth primarily through increased shareholder value. With a corporate governance system, dominated by insider stakeholders, strengthening institutional investors and the rights of minority shareholders in Japan to create a market of corporate control could well produce active owners focused on improving shareholder value. Therefore Japan illustrates well the importance of corporate governance to provide opportunities for improving a nation's economic performance.

Unlike Japan, institutional investors in Canada are strong. Indeed, they dominate our market. Whether they choose to exercise their influence over the corporations in which they invest is another matter. Senator Oliver and Senator Angus pointed out in this chamber that the committee sought to ensure

that those influencing governance practices in corporate Canada have themselves adequate governance systems in place. In short, who monitors the monitors? Who watches the watchers?

As Mr. Michael Grandin of Canadian Pacific Limited testified, there are three broad categories of institutional investors:

...those that vote with their feet; those that seek to influence management through dialogue and persuasion and a small but emerging group who actively seek to influence management through board seats and catalytic activities.

The role of institutional investors was explained in a somewhat different way.

Institutional investors are similar to a posse, actively pursuing increased returns. But shareholder activism also produces the occasional lone ranger, grandstanding on his own by attempting to mask personal social and political agendas in the guise of shareholder interest.

It is fair to say that the committee viewed institutional activism as providing significant opportunities to create higher return on assets and equity in Canadian companies.

[Translation]

Transparency, honourable senators, is a priority for the committee, hence its particular interest in the issue of access to information. The role of all boards of directors is to oversee management in the interest of the members. This raises the question put earlier about who controls the controllers. Members must be able to knowingly assess the performance of their pension plan in order to know whether their interests are properly protected or not. To do so, they must have access to useful information they can understand.

The committee heard that more and more employers in Canada are publishing annual reports, including data on the performance and liabilities of their retirement funds. This is a useful and important improvement, which the committee encourages in its report. However, we are not aware of the existence of a mechanism to oversee the investment strategy of pension funds. Keith Ambachtsheer, a well-known expert in pension funds, who testified before the committee, advocated the establishment of readily comparable points of reference.

The committee has long advocated measures to improve the transparency of institutions that publicly accountable, for example the financial institutions of the Crown and publicly traded companies. As figures and measures are important to promote this transparency, it was reasonable to recommend that pension funds set detailed performance measures for themselves if the public is to make enlightened decisions on the performance of these institutions. The committee also recognized, however, that the same measures do not always apply to every pension fund.

[English]

• (1710)

The committee was also interested in access to what might be called privileged or insider information. This area of the report was, of course, covered extensively in the daily press, given the highly publicized cases at the time of Nortel, for example. Many honourable senators may recall that information with respect to revenue and earnings presented at a private meeting between company executives and analysts prompted a massive sell-off in shares. I hope that all honourable senators profited by that sell-off to purchase some shares at the time, because I think they have probably quadrupled. Before retail investors became aware of this information that was made available to analysts and institutions, the value of their shares had plummeted by nearly \$62 to about \$48.

The committee did not take issue with institutional investors, or any other investor, for that matter, engaging in informal get-togethers or information gathering which may well be necessary to fulfil one's fiduciary responsibilities, but the committee did take issue with unequal access to information.

The committee believed that individual investors must have timely and equal access to information presented by companies to analysts and institutional investors. Dissemination through the Internet and 1-800 numbers was suggested as a means of making information more widely and instantaneously available than it is now. We therefore recommended that the media be invited to listen to, but not participate in, briefings of analysts by management following the release of each quarterly company report.

Honourable senators, in principle, the governance of an institutional investor is no different from the governance of any public corporation. Over the past 20 to 30 years, however, the function of boards of public sector pension plans has changed significantly. While boards were originally set up to oversee pension administration, they now must spend a great deal of their time discussing investment strategy. Therefore, the committee came to the conclusion that, in some cases, legislative changes may be needed to enable boards of institutional investors to cope with these new responsibilities.

We investigated the question of whether a lay board can meet the expectations placed upon them. The largest pension fund with a lay board, the Ontario Municipal Employees Retirement System, testified that because their board members are members of the pension plan, they are strongly motivated to monitor the operations of the funds. On the other side, the CEO of the Ontario Teachers Pension Board, the largest pension fund in Canada, was not enthusiastic about educating people in pension matters after they have been appointed to the board. His view was that board members who come with the necessary expertise will ask much better questions than someone who has no real experience with large-scale investments.

After much deliberation, the committee came to the conclusion that an educated lay board may bring fresh insight to professional staff who may take a more narrow focus in their decision-making processes. The committee felt it important to stress, however, that, while lay boards may be up to the task, it is critically important that the individuals appointed should have the necessary knowledge to enable them to effectively monitor a fund's managers.

While the means to this end may be education, the committee left open the question as to whether the time has come for a licensing system for directors of pension funds.

It is critically important, honourable senators, in the debate over the qualifications of boards members, that all boards carry out an ongoing review of their governance procedures to ensure that the mission of the organization is being effectively pursued.

Many of the points I have outlined have, in effect, already been put into place by organizations overseeing pension plans and mutual funds in Canada. The Pension Investment Association of Canada, which represents 47 public pension funds and 78 corporate pension funds, recently released guidelines for the governance of pension funds. The Association of Canadian Pension Managers, another major organization representing pension funds in Canada, also announced guidelines. The Office of the Superintendent of Financial Institutions followed with guidelines for the pension plans it regulates.

The fact that three sets of guidelines or best practices were developed in response to the work of our committee in the area of corporate governance is, I think, testimony to the value that this house provides to Canadians, a majority of whom belong to a pension plan which will need to adhere to these new guidelines.

While the committee obviously supports the development of guidelines, the challenge is in their effective implementation. How should the pension fund industry's code of conduct guidelines be enforced?

Mr. John Palmer, the Superintendent of Financial Institutions, spoke in favour of an enforcement approach similar to that used by the TSE following the Dey report, which has indeed, I think, worked very well. This succeeds by requiring trustees to write a report setting out exactly how they comply with each of the guidelines. While providing public pressure to adhere to guidelines, it does provide the trustees with flexibility to use their own criteria in deciding just how the guidelines apply.

The committee believed a similar approach would work equally well with respect to institutional investors, both pension funds and mutual funds.

One governance expert who testified before us stated that the potential for public disclosure and embarrassment can certainly lead to a change in behaviour. In fact, fear of negative publicity, he felt, is often a stronger incentive to change than publicity itself. Fear of embarrassment can be a very strong regulatory tool.

The committee recognized, however, that immediately requiring all pension funds to apply one of these sets of governance guidelines to their individual circumstances and imposing Dey report disclosure measures on them is an untenable burden for a number of small, employer-initiated pension plans. Consequently, the committee intends to hold hearings in the year 2000 to determine whether regulations are needed to ensure that plans are being well governed, or whether voluntary compliance with the various guidelines has proven satisfactory and whether it would be useful to refine the PIAC, ACPM and OSFI sets of guidelines further.

At that time, our committee will also look at recently released guidelines from the Investment Funds Institute of Canada, since the committee agreed that there is a need for the implementation of a corporate-style governance regime for mutual funds in Canada.

In this regard, the committee made two major recommendations. First, independent directors should have a key role to play in the governance of mutual funds; the committee felt strongly that every mutual fund should be required to have a majority of independent directors. Second, legislation should be enacted that would recognize a business trust structure, similar to a corporate structure as currently exists in the U.S., to ensure funds structured as trusts are subject to the same sort of legal requirements and scrutiny that funds structured as corporations are.

Honourable senators, the committee's examination of these new guidelines will be especially interesting given mutual fund governance reforms proposed by U.S. Securities and Exchange Commission Chairman Arthur Levitt in March of this year to strengthen independent directors of these funds. May I add that I was grateful to my colleague Senator Oliver for omitting the proposals from his speech so as to leave me one or two more crumbs.

The proposals that were made in the U.S., and which I think we should examine carefully, were intended to strengthen independent fund directors in the following four ways: to require fund boards to have a majority of independent directors; to require independent directors to nominate any new independent directors; to require that the outside counsel for directors be independent from management to ensure that directors get objective and accurate information; and, finally, to require that fund shareholders have more specific information on which to judge the independence of their fund directors.

These are indeed significant reforms, and worthy of debate here in Canada.

[Translation]

Honourable senators, when the committee began its study, the internal board of institutional investors had few guidelines. In very short order, the pension fund and mutual fund industry has taken giant steps to establish guidelines for their industries in order to improve control procedures. The committee has always worked and will continue to work to ensure a healthy, energetic

and profitable industry that responds to the needs and desires of the people of Canada.

[English]

• (1720)

Hon. Nicholas W. Taylor: Would the honourable senator permit a question or two?

The Hon. the Speaker: Honourable Senator Taylor, before I accept your question, the time period has expired. Is it the wish of the Senate to extend leave?

Hon. Senators: Agreed.

Senator Taylor: Honourable senators, the number of computers in homes with access to the worldwide web has now increased. It was around 40 or 50 per cent last time I looked, and it is a fairly logical conclusion that the type of people who invest probably represent 75 per cent of the homes that have access to the worldwide web. As the honourable senator pointed out in his speech, he probably realizes that his mailbox is filled with annual reports, supplementary reports and information circulars. It is difficult to access this information by mail or by library. The Internet, however, is very easy to access. You can turn it on and off and you do not have a blue box full of paper just from investigating a few companies as you would if you were to use mail.

Was any thought given in any publicly listed company or mutual fund that it would be compulsory to have a web site and their quarterly reports available? Was any thought given to making that a compulsory form? I know it is compulsory that certain forms are mailed out, but mailing is probably the worst method of circulating material now because it will get mixed up with the Sears catalogue and a few other things — that is, if it does not get thrown away by some other member of the household. A Web site is an easy way to pick up information, yet it is surprising how little information is contained on some web sites. Was that issue explored?

Senator Meighen: I thank the honourable senator for his question. The short answer is: To the best of my recollection, no. However, we did point out that the 1-800 numbers and the Internet, in the context of the Nortel example that I gave about communication, was a way of being able to communicate to a wider audience. The honourable senator's suggestion is well taken, and one that the committee could consider when we look at the question of mutual fund governance in the year to come.

In principle, I would agree with what the honourable senator has said. I am not sure what the costs are or what other objections might be made. On the surface, I cannot think of any. However, it was not a question that was debated at any length in the committee.

Senator Taylor: The cost would probably be less than using the mail. It would probably also have the advantage of being delivered quickly.

I picked up the fodder for my next question from the *National Post* or *The Globe and Mail*. Some organization in Calgary had almost 40 per cent of one of their funds in certain shares that did quite well. It occurred to me that, due to the tremendous amount of cash that flows into them, mutual funds are in a good position to affect the corporations in which they invest. Likewise, the people who invest in a mutual fund may want to hold a fairly broad band of stock. Those are two limits the committee may want to consider.

Senator Simard: What is the question?

Senator Taylor: First, did the committee consider whether or not there should be a limit on what any particular mutual fund may hold in any corporation without an interlocking directorate; and, second, did the committee consider at the other side, namely, whether there should be any limit to what a mutual fund can buy in any particular corporation relative to the total assets of that mutual fund?

Senator Meighen: The short answer is "no." If I am not mistaken, certain mutual funds have their own internal investment guidelines which would establish limits on the nature of investments — that is, those funds that invest only in appropriate investments, for example, not in tobacco stocks. Some funds set down criteria as to the type of investments they make. They may well also, although I am not personally familiar with any, set down regulations as to the size of the holding in any one investment. I do have personal knowledge of a mutual fund that has those certain limitations. I know of that, but that is an internal matter.

We were concerned that the governance of the mutual fund should be independent and good enough so that the mutual fund investors would be well aware, through their representatives on the board, the independent directors, of what the mutual funds were doing in terms of investments.

As to the other suggestion, no, I do not think we considered that. However, it is something that we might well do. That is all I can tell say in that regard.

On motion of Senator Kinsella, for Senator Di Nino, debate adjourned.

• (1730)

ACCESS TO CENSUS INFORMATION

INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Milne calling the attention of the Senate to the lack of access to the 1906 and all subsequent censuses caused by

an Act of Parliament adopted in 1906 under the Government of Sir Wilfrid Laurier.—(Honourable Senator Johnson)

Hon. Lorna Milne: Honourable senators, on November 17 of last year, I spoke about access to census information.

The Hon. the Speaker: Honourable senators, I must warn the Senate that if the Honourable Senator Milne speaks now, her speech will have the effect of closing the debate on this inquiry.

Senator Milne: I spoke to Senator Johnson, and she is not prepared to speak at this point. She will speak in the fall, when I revive the matter.

Hon. Eymard G. Corbin: Honourable senators, I had indicated to the honourable senator that I wished to say a word or two on this matter, but I was waiting for Senator Johnson's speech.

If I may be allowed a very brief comment, I support the initiative. I was at one time an active genealogist. I have had opportunities to check records left and right in archives, including very interesting and revealing Canadian census records regarding my own ancestors. Everyone wants to do that. I find it incredible that we would now bring down a stone wall on the possibilities and opportunities to examine these old records. I think Statistics Canada is going slightly overboard and is slightly overzealous in its wish, I presume, to protect certain privacy rights or private matters.

I could not care less if someone discovered something about some of my ancestors not being too Catholic, or whatever. What is done is done. This is a very great activity with a number of individuals, especially retired people who now have time to thumb through records and old documents. I would not qualify it as an industry or a growth industry, since it has been with us for many years. The information one digs up in the examination of these records is intellectually stimulating in more ways than one.

To put it simply, I support Senator Milne's initiatives as strongly as I can, even though I have not provided myself with a written text today.

Go ahead and slam it, senator. You're right on!

The Hon. the Speaker: Does any other honourable senator wish to speak before the Honourable Senator Milne closes the debate? If not, please proceed, Senator Milne.

Senator Milne: Honourable senators, I appreciate very much Senator Corbin's input into the debate.

As has been pointed out, all census returns after 1901 will never be released to the public. Beginning with the 1906 western census, the Statistics Act promised that the information collected was to be kept secret. Statistics Canada has interpreted this guarantee of secrecy to be for eternity, meaning that the census returns after 1901 will never be made available to the public for research purposes.

Since my speech, other honourable senators in this place have discussed various aspects of this issue, including Senator Corbin today. Everyone has added important and compelling reasons why census returns should be released for public consultation, and I thank them all for their input.

I have also received hundreds of letters and e-mails from across the country. I have not received one single letter from a member of the public opposing the release of the post-1901 census returns because of privacy concerns.

Recently, I attended and spoke to the Ontario Genealogical Society annual meeting in Toronto as their lead speaker. The response I received from the members was incredible, and the credit they are bestowing on the Senate is gratifying. After my speech, many members came to me to express how important this access to census records is to them and to their communities.

There is one story in particular that I would like to share with you today. One lawyer, Catherine Bray, took a case on behalf of the Ontario Historical Society versus the Town of Markham. A developer was seeking permission from the town to move a pioneer cemetery to let him build one more townhouse onto the end of the string he was currently building. Through the use of old census records, Ms Bray was able to build a case to not only to stop the developer but to protect the cemetery as well. It now stands as a lasting legacy to the first inhabitants of that area.

Today, I should like to explore what this guarantee of "secrecy" really means. If a valuable source of history is being denied to Canadians because of a guarantee of secrecy, we must understand exactly what was meant by "secrecy." What was being promised to people under the guarantee of secrecy at that time?

In 1906 and 1911, the secrecy guarantee was contained in regulations by Orders in Council that have the force of law, as we all know. The Orders in Council instructed commissioners to guarantee to census respondents that:

The facts and statistics of the census may not be used except for statistical compilation, and positive assurance should be given on this point if a fear is entertained by any person that they may be used for taxation or any other purpose.

It is interesting to note that this "promise of secrecy" was embedded in a section entitled "Instructions for Enumerators." If we look at the Orders in Council as a whole, the idea of secrecy appears attached to the people who are collecting the information. In fact, the people answering the questions likely did not know that the information they provided would be kept secret forever. Only someone who expressed fear that his information would be used for taxation or any other purpose would be informed that the people who collected the information had to keep it secret.

In addition, newspaper articles written around the time of census day in the early part of this century reveal how the idea of

secrecy was perceived at that time. I have researched articles that were written around census day in the years 1906, 1911, 1921 and 1931. The few articles that mention secrecy of census information are very telling.

An article in the Montreal *Gazette* on census day in 1911 reports on the conduct of the enumerators and notes that:

Each one of these men knew what he had to do, and he was aware that nothing was to be gained by any but polite and discreet methods on his part.

For example, while it would be necessary to enquire about illness and physical or mental incapacity in a family, all could rest assured that such information was absolutely private, each official sworn to perform his duties for the Government and no one else.

Here, secrecy appears to mean that the people who collected the information were not permitted to divulge it.

Another reference to the guarantee of secrecy appears in *The Globe* on the eve of the census in 1931. The article mentioned that 1931 was the first time that figures were collected on the number of unemployed persons in the country, the reasons they were out of work and the length of time. The article describes that:

...in order to ameliorate the irritation caused —

— by —

— this official dissection of personal affairs, the Department of Trades and Commerce has explained the answers will be kept secret even from other departments. For instance, the question "Have you a radio?", may be answered frankly with no fear that the Government Radio Branch later on will begin checking up on unpaid radio licence fees.

Honourable senators, there is a huge leap between guaranteeing that census information will not be used to collect outstanding radio licence fees and guaranteeing that information will never be released to the public as an historic document, even nearly a century after that information was collected.

• (1740)

The promise of secrecy appeared to involve radio fees rather than an ironclad protection of the right to personal privacy as it is conceived of to today. Even the Hansard debates leading up to the passing of the 1905 and the 1918 legislation do not include any discussion whatsoever about the need to restrict access to the census returns forever.

In fact, the primary concern of legislators at that time was the time delay between census day and the release of the compiled statistics. The cost of administrating the census was another concern.

The examples I have just provided are not extensive. Nevertheless, they provide us with some insight. They cast light upon the sorts of things that the guarantee of secrecy may have encompassed in the early years of this century. If the right to secrecy at that time meant that the individual respondents were protected from giving the information and having it used to their detriment by other government departments, or if the right to secrecy meant that the people who collected the census information were required to keep the information confidential, this is important to recognize. There can be no question that the current state of the law ensures that the government upholds the guarantee of the right to secrecy of census information.

In fact, if the only way to uphold that promise of secrecy were to forever bar the release of census returns, I could understand continuing with the current scenario. However, I must tell you, honourable senators, that in this day of computerized records when it is estimated that 95 per cent of the intimate details of a person's life are on record somewhere, where your American Express card or your Visa card not only records where you shop but what route you normally follow through the local mall, which stores you prefer, who you phone and how often, who your doctor or dentist is, and what papers and magazines you read; in an era when almost everything about an individual is known and often shared or sold by private consortiums, it seems a bit ridiculous to be debating a somewhat spurious and indirect guarantee of secrecy forever by the Canadian governments of 1906 and 1911.

Unfortunately, this extreme position comes at a great cost — the loss of an important source of almost a century of Canadian history. After examining what the guarantee of secrecy likely meant to census respondents, I feel that this promise can be honoured with less extreme measures than locking away the information of this immense historical value forever.

Honourable senators, I share this view with many others. In a letter to Minister Manley, Althea Douglas asked the minister to consider extending the time limit:

...but do not close forever the century that was said to belong to Canada.

Gregory Kealey, president of the Canadian Historical Society, recently wrote in a letter to Minister Manley, and copied to me:

...this census material is absolutely fundamental to our understanding of 20th century Canada and it must be made available so that researchers can critically address and explain many of the significant themes, trends and issues in Canadian history over the past century.

I feel that forever barring the census returns from public access is too severe, especially when weighed against the historical value of the records and the fact that never releasing them may deny Canadians an important part of their heritage.

I warn you that I will have more to say on this important issue in one way or another when we all meet again in the fall.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

SECURITY IN EUROPE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the Canada-Europe Parliamentary Association (OSCE) Delegation to the Standing Committee Meeting of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE PA), held in Vienna, Austria, from January 14 to 15, 1999 and the situation in Kosovo.—(Honourable Senator Andreychuk)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, an important topic is encapsulated by the inquiry introduced by Senator Grafstein calling our attention to the Canada-Europe Parliamentary Association's delegation to the standing committee meeting of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe held in Vienna. They also focused on the situation in Kosovo.

As honourable senators know, the OSCE has been playing a major influencing role in the Balkan theatre. I wanted to take the occasion to give a little focus to the situation in Kosovo today as a number of converging events have presented themselves, including resolution 1244 which was adopted by the Security Council of the United Nations at its 4,011th meeting on June 10, 1999. It is the resolution to which the Leader of the Government referred in his statement earlier this day.

Honourable senators, the Security Council, in this resolution, bearing in mind the purposes and principles of the United Nations and the primary responsibility of the Security Council for the maintenance of international peace and security and the fact that we now have this resolution and the return in my view to the international order and respect for the rule of law, is all good news. It speaks to the hope, the very realistic hope, that we have for Kosovo and Yugoslavia over the coming months.

A number of international institutions and organizations have been party to events over the past three months. In particular, NATO, of which Canada is a very important member, has been engaged in the bombing activity. More important, with this resolution of the Security Council, a number of important steps must be taken and certain responsibilities assumed by all member states including, clearly, Canada.

The sum and substance of the resolution from the Security Council speaks to the determination to ensure the safety and security of international personnel in the implementation by all concerned of their responsibilities under the present resolution. The Security Council has decided that a political solution to the Kosovo crisis shall be based on the general principles provided in an annex.

The annex is the general principles that flow from the meeting of the G-8 foreign ministers held on May 6. It demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin a complete, verifiable phase of withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with the deployment of the international security presence in Kosovo to be synchronized.

The confirmation will have to be that, after the withdrawal, an agreed number of Yugoslavian and Serb military and police personnel will be permitted to return to Kosovo to perform certain functions. The functions relate to heritage sites and certain border crossings.

• (1750)

Due to the time of day, I am inclined to go not much further into detail, but with your permission, honourable senators, I would be prepared to table this document, which I believe you would find it very helpful to read over the weekend, because I am sure that in the early part of next week we will be wanting to have some focused debate on this hopeful development.

In conclusion, I would ask that, as you study this resolution of the General Assembly, you consider some of the debate that has occurred here. In the first moments of discussion on this issue two or three months ago, we spoke directly to the need for the principle of autonomy being respected in Kosovo, as well as to the other principle of territorial integrity. Both of those principles, which are often irreconcilable, are contained in the resolution of the Security Council. What we have been debating on an ongoing basis since the beginning of this tragedy is reflected in many ways in this resolution adopted on June 10 by the Security Council.

Honourable senators, I will table this document, if there is agreement.

The Hon. the Speaker: Is leave granted for the document to be tabled?

Hon. Senators: Agreed.

Hon. John B. Stewart: Will the Honourable Senator Kinsella accept a question?

Senator Kinsella: Yes.

Senator Stewart: Does the document give any information as to who will provide the money to maintain the autonomy of

Kosovo while also maintaining the territorial integrity of the Federal Republic of Yugoslavia?

Senator Kinsella: Yes, it does, honourable senators. There is a clause which speaks directly to the economic needs in the short term as well as in the intermediate term, as well as to responsibilities that have been assigned not only to member states but to international organizations such as the Organization for Security. As I recall, the language in which the UN resolution addresses this issue is fairly general. However, I think the principle is there.

Senator Stewart: Principles are sometimes easy to state. Does it tell us how much the Canadian taxpayer will have to pay to maintain these two principles on behalf of the Security Council?

Senator Kinsella: No, honourable senators, it does not. That is why we should all have the resolution to read. It is to be hoped that next week we will be able to address those direct questions which will have impact on the Canadian taxpayer.

The Hon. the Speaker: Is it agreed, honourable senators, that this order will stand in the name of the Honourable Senator Andreychuk?

Hon. Senators: Agreed.

QUESTION OF PRIVILEGE

Hon. Lowell Murray: Honourable senators, my question of privilege arises from events which transpired in this chamber yesterday afternoon around 3:30 p.m., which events are recorded at page 3568 of the *Debates of the Senate*.

To summarize briefly, the Honourable Senator Lawson moved the adjournment of debate on the eleventh and ninth reports of the Standing Committee on Privileges, Standing Rules and Orders. The Speaker put the adjournment motion and, on a voice vote, declared that, in his opinion, the "nays" had it. Two honourable senators rose and a standing vote was called with a five-minute bell. The Speaker has just now quoted the relevant passage:

The whips advise me that there will be a five-minute bell.

Honourable senators, I will say parenthetically that leave is required for any bell under 60 minutes. In this case, leave was not sought, and it appears to me, from a reading of the *Debates of the Senate*, that leave would not have been granted had it been sought because our friend Senator Corbin objected to what was being done.

I will read for the record the relevant rule, which is rule 66(1):

Unless previously ordered or elsewhere provided in these rules, when a standing vote has been requested in accordance with rule 65(3), the bells to call in the Senators shall be sounded for sixty minutes unless otherwise ordered, and with leave of the Senate.

That, however, is not my point, honourable senators. Were that my point, I would have risen on a point of order. I am rising on a question of privilege.

When the bells rang, quite a number of senators were not in the chamber. A busload of us came here from the Victoria Building, quite literally breathless with anticipation of this vote, only to find that it had been held.

It is my view that a five-minute bell is an imposition on, and an outrageous abuse of, the rights of honourable senators who may not be physically present in the chamber when the vote is called. It matters not whether there are 103 senators physically present in the chamber. The one hundred and fourth senator has the right to come and vote and the right to adequate notice by way of the ringing of the bells. We ring the bells in order to summon those senators who are not physically present in the chamber. As we know, senators' offices are located in the East Block as well as in the Victoria Building, and five minutes is quite inadequate for honourable senators to come here for a vote.

Some would say that the matter in question was not a very grave matter; it was only an adjournment motion. However, it seems to me that is not given to any honourable senator to presume upon the importance, or lack thereof, that any other honourable senator might attach to a particular vote. My point is that under no circumstances, and at no time, should there be a five-minute bell. We must have a longer bell. We must have much better notice than that for a standing vote.

Even if leave had been granted yesterday, my position would be the same; that a five-minute bell is an abuse of the privileges of those honourable senators who happen not to be physically present in the chamber at the time, on the part of those who are.

It is clear to me, from a reading of the rule, that with leave the five-minute bell is allowed under the rules. Therefore, the remedy can only be in the rules and hence my motion, seconded by Senator Kinsella —

• (1800)

The Hon. the Speaker: Senator Murray, first, I believe you must make your point, and then I will decide whether there is a *prima facie* case. If you have concluded your comments, I would inquire whether any other honourable senator wishes to speak on the question of privilege.

Hon. Anne C. Cools: Honourable senators, I should like to speak in support of Senator Murray's question of privilege.

Yesterday I was found to be in a similar situation. I was not in the Victoria Building. I was in a situation where I suddenly heard the bells and came running in to exercise my vote. I was not aware of the circumstances that gave rise to it.

The Hon. the Speaker: Honourable Senator Cools, I regret to have to interrupt you, but the clock says six o'clock.

Is it agreed, honourable senators, that we shall not see the clock at six o'clock?

Hon. Sharon Carstairs (Deputy Leader of the Government): There is agreement not to see the clock.

Hon. Senators: Agreed.

Senator Cools: Rule 66(1) is clear and, as Senator Murray says, he could have done that on a point of order. There is something which is additionally bothersome, I believe, and we should make a note. I am looking at *Debates of the Senate*, page 3568, where His Honour rose and related the result of the voice vote. His Honour states that the whips have advised him that there will be a five-minute bell. I would have missed all of that.

There is nothing on the record which shows either the whips or the leaders actually saying that there should be a five-minute bell. It would seem to me, if there had been such a discussion, that someone at the time would have responded and said that we needed leave to be able to do that.

I should like to add that point. The Senate makes its rules, the Senate can make exceptions to its rules, and the Senate has a right and a duty to proceed in an orderly way. Sometimes these exceptions must be made. Where the clarification is necessary is that the right and proper steps should be taken when the Senate is about to make an exception to its rules.

In addition, if I could just repeat the point — and perhaps we should take this into consideration as well — when His Honour says, and I believe him, that the whips have advised that there will be a five-minute bell, how was that advice given? Did they run up there suddenly to the Chair and say "five minutes?" The manner in which this instruction was put to His Honour is unclear.

Perhaps, then, as His Honour examines this question and lends his guidance and his years of experience, what we could try to do is simplify the matter and bring greater clarification, and avoid confusion or unhappiness in the future. When the whips articulate the amount of time that they are suggesting to His Honour, and to the chamber, perhaps they could rise in their places and state that clearly, so that we would all hear it and we would all know about it. If there is an objection, it could then be raised. I have no doubt that the whips are acting with all proper duty and honour, and have every intent that the rules and the business of the Senate be followed.

I support Senator Murray. I believe Senator Murray is absolutely right on the issue of rule 66(1). However, I cannot help but believe that what transpired was a bit of a misfortune, and something of an unfortunate situation where one or two assumptions might have been made and a certain amount of miscommunication happened to take place.

In the future, honourable senators, when the whips are indicating the amount of time that they require, perhaps we can just make it a point that they rise and state it clearly. I have heard Senator Carstairs do this on many occasions.

The final point — and I am speaking totally extemporaneously, and I believe all senators would join with me here — the exercise of a vote is a critical and important element of the exercise of our duties here. I am sure that we want each and every one of us, at all times, to exercise that duty, and be able to vote.

In addition, I thank Senator Murray for bringing forward his question of privilege, which is important. We all have a bounden duty, when we see something that strikes us as wrong or unusual, to bring the matter forward in order to bring correction and clarification to the matter, and to try to avoid the problem in the future.

To that extent, I thank Senator Murray, and I support the fact that he proposes to raise an appropriate motion.

The Hon. the Speaker: Does any other honourable senator wish to speak?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I should like to make a couple of comments. In examining the *Debates of the Senate*, on page 3568, on the left-hand column, you will see, after the second paragraph, that there is an indication of the time of the afternoon at which we were, and it was 1520. After 1520, three or four paragraphs down, we are into the debate in which Senator Wilson was speaking, and then the matter of the movement to adjourn made by Senator Lawson. If you look at the bottom, on the right-hand column, we were well into the question of a vote on the adjournment motion prior to 3:30 p.m.

At 3:30, I am sure the whips were cognizant of the fact that there had been published a notice of meetings of at least one standing Senate committee for 3:30. Second, no doubt the whips were also cognizant of the fact that they, as the chamber, are often under great pressure to rise on a Wednesday afternoon between 3:15 and 3:30 p.m.

I would suspect that the suggestion of having a five-minute bell was modified by those other kinds of pressures. I am sure that there was absolutely no desire other than to expedite the committee work that commences in the middle of Wednesday afternoon. On the other hand, I believe we made a mistake, and I would accept the point that is being made by Senator Murray, and also I believe we were slow to pick up on the point that was made yesterday afternoon by Senator Corbin. Unfortunately, it was not presented as a denial of unanimous consent to do that. However, we did have the forewarning to which we should have listened.

In fairness to the whips, they are under that tremendous pressure to chairs of committees to get out on Wednesday afternoon between 3:15 and 3:30 p.m. On the other hand — and Senator Murray alluded to this — there should never be a five-minute bell. Earlier today we have effectively indicated that, because on Monday afternoon, there will be a vote at five o'clock, and then one shortly thereafter.

Senator Murray: That is completely different. It becomes an order of the house.

Senator Kinsella: That is just to make the point that there may be circumstances where we might wish votes to be taken with less than a 15-minute bell being sounded. However, we can learn from our experience and I am sure we will.

Hon. Eymard G. Corbin: I had not intended to speak. I believe I made my point yesterday when I blew my top. It is not the first time these incidents have happened. I believe it is a dangerous game. Regardless of the pressure that the whips might be under, the rule is clear, and it is there to protect the democratic expression of all honourable senators.

• (1810)

His Honour would not have accepted a point of order at that moment from myself or anyone else. At least, that would have been my reading. Therefore, I said what I said. However, I was not doing it for myself. I was doing it for those honourable senators who were not in their places here in the chamber.

Regardless of the importance of the question before the house, we all have a right to express ourselves. The most important thing we do here, besides speaking our opinion, is voting — the act of coming to an ultimate decision. If we deprive any of our colleagues of that opportunity, we erode the democratic rights of individuals and of the chamber.

The Hon. the Speaker: Honourable senators, I am prepared to rule now, unless some other honourable senator wishes to speak.

First, I thank honourable Senator Murray for raising the matter —

Hon. Nicholas W. Taylor: On a point of order, I think the motion has to be put forward before you rule.

The Hon. the Speaker: First, I must determine whether there is a *prima facie* case, and then Senator Murray can move the motion.

Senator Taylor: Beauchesne, sixth edition, at paragraph 115 says:

A question of privilege must be brought to the attention of the House at the first possible opportunity.

It says that whoever brings the privilege also brings the motion, and then the Speaker makes his decision.

The Hon. the Speaker: Honourable Senator Taylor, I appreciate very much what Beauchesne may say, but in this particular case our rules are clear. Our rules lay down what it is that I must do, and it is different from what Beauchesne says.

Senator Poulin: Beauchesne takes the back seat on this one.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, it is my responsibility, once I have heard sufficient argument, to determine whether or not there is a *prima facie* case, and then Senator Murray can move his motion, according to our rules.

I will say at the outset that I thank Senator Murray for raising this matter. It is important. I appreciate the comments that have been made by every senator.

I remind you of rule 43(1), which says:

The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any one Senator affects those of all Senators and the ability of the Senate to carry out its functions outlined in the *Constitution Act, 1867*. Action to ensure such protection takes priority over every other matter before the Senate.

Our rules are very clear on this point. Insofar as whether or not there is a *prima facie* case, the conditions are outlined in 43(1)(a), (b), (c) and (d).

It must be raised at the earliest opportunity: It has been. It must be a matter directly concerning the privileges of the Senate, of any committee thereof, or of any senator. It is obviously one that concerns the privileges, the right to vote, of not only the one senator who has raised it but others who have spoken.

It must be raised to seek a genuine remedy which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available. That has been done, because Senator Murray told us in his oral statement that he was providing a remedy. It must be raised to correct a grave and serious breach. Anything that prevents senators from voting is a serious breach.

I therefore declare that there is a *prima facie* case.

I would make one additional comment, if I may. I listened to Senator Cools' comments regarding the communication between the whips and the Speaker. It is a problem. Yesterday, the whips came and stood in front of me and gave me the information. They do that because, unfortunately, usually when there is a standing vote, everyone, instead of staying in their seats, is moving around. There is so much noise that no one can hear.

If honourable senators agree, henceforth when there is such a vote, I will call for order and have everyone sit. Only honourable senators can make that happen. Honourable senators must cooperate. I would recommend that, if that is agreeable, we adopt that practice. From now on, if there is a vote called, I will ask for order, and we will not proceed until there is order.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

MOTION TO REFER MATTER TO PRIVILEGES.
STANDING RULES AND ORDERS COMMITTEE ADOPTED

Hon. Lowell Murray: Honourable senators, in presenting this motion, let me say that, far from imputing bad faith or deliberate intent to anyone, I accept completely, and indeed I understood at the time the circumstances and the motives that animated honourable senators at 3:30 yesterday in doing what they did. Reflecting on what happened yesterday and reading the rules, it is clear to me that, with leave, the rules make it possible to abuse the rights of senators who are not present in the chamber when a standing vote is called. The problem is with the rule; the remedy is with the rule.

Therefore, I move:

That the issue of the rights of all Senators to be able to participate in standing votes in the Senate that have been requested in accordance with Rule 65(3), and the procedures followed on June 9, 1999 regarding the vote to adjourn the debate on the Eleventh Report of the Privileges, Standing Rules and Orders Committee, be referred to the Standing Committee on Privileges, Standing Rules and Orders.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

NORTH ATLANTIC TREATY ORGANIZATION

INVOLVEMENT IN YUGOSLAVIA—RELATIONSHIP TO
INTERNATIONAL LAW—INQUIRY—DEBATE ADJOURNED

Hon. Jerahmiel S. Grafstein rose pursuant to notice of April 13, 1999:

That he will call the attention of the Senate to the question of international law: Canada and the NATO action in the Federal Republic of Yugoslavia.

He said: Honourable senators, at first blush, the UN resolution tabled by Senator Kinsella respecting the NATO action in Kosovo and the Federal Republic of Yugoslavia appears to have been overtaken. However, I believe, honourable senators, the essence of the inquiry as to the legitimacy of the NATO action still should be properly debated in this place. I have not, as of today, fully completed my research on the inquiry. However, because Senator Roche, Senator Taylor and others wish to address this question, perhaps I should commence the debate on this inquiry, take the adjournment, and then allow other senators to speak. Perhaps we can complete this debate before we adjourn at the end of next week.

Honourable senators, let me begin by raising issues that might be helpful to other senators with respect to my views.

A fierce controversy has erupted across the globe with respect to the legitimacy of the NATO action in Kosovo under international law. The debate, honourable senators, arises from different notions of the nature of international law. What rule of law is encapsulated in international law? What are the sources of international law? What are the sources of international legitimacy? How does international practice emerge from case-by-case precedence under the rubric of international law?

The heart of the current debate stems from the notion that the United Nations is the sole source of legitimacy under international law and, more to the point, that only the UN can legally and exclusively authorize the enforcement of international legal norms or forceful sanctions for compliance with justifiable UN resolutions or multilateral treaties and conventions that may have been breached by individual member states.

The argument has been promoted that since the United Nations had not passed a Security Council resolution pursuant to the UN Charter authorizing force to support UN resolutions or well-established conventions or multilateral treaties, that the NATO action in Kosovo may be in breach or contrary to international law. Such a statement fails to take full cognizance of the sources, the pillars, indeed the nature, of international law itself.

Let us start with those that declare that, since the UN had not passed a Security Council resolution authorizing force to support UN resolutions, NATO action in Kosovo may have been in contravention of international law. Proponents of illegality argue that since the UN Charter is supreme, only the UN exclusively can authorize sanctions or force. Only the UN can legally, they say, deploy armed enforcers on behalf of the international community. Any other development, they say, any other action, would be contrary to international law.

• (1820)

Let us probe the validity of this exegesis. The present system of international law is roughly 400 years old, with rules which are much older. However, as the great Brierly pointed out, it was only in the 16th century that treaties began to affect rules that states followed in their relationships with one another. From that time, this growing set of rules became treated as a separate branch of learning. What began to emerge, almost like a chrysalis, was a vacillating set of rules designed to guide sovereigns, rather than precepts of ethics or morality. It was Catholic theologians and canon lawyers who developed the notion of "just" wars, the legitimacy of war under certain circumstances and conditions.

Some observers have noted that the rise of international law, as a set of legal rules, was one of the great sea changes that marked the murky marsh between the mediaeval and modern eras. Some Eurocentric historians say that the secular consequence of the Reformation was subordinating the mediaeval idea of the unity of Christendom to a secular system of sovereign states, independent, acknowledging no authority, no sovereignty, beyond itself.

Yet even this paramount conception of sovereignty was not considered inconsistent with the state's subordination to a higher set of laws. Some say that state sovereignty is absolute and, therefore, cannot be limited in its behaviour by law or anything except a superior force. International law, therefore, would find itself impossible of definition as "law," not because states have an obligation to follow an international rule of law, and not only because they find it prudent or convenient from time to time to do so.

Yet, the great Brierly put it best:

It is not a bad definition of International Law to say that it is the sum of the rights that a state may claim for itself and its Nationals from other states and of the duties, which in consequence, it must observe towards them.

States often violate international law, just as individuals violate domestic law. However, neither individuals nor states can defend their violations by claiming they are above the law.

Honourable senators, the rules of international law germinated, like the common law, from unwritten custom to case law, from conduct and practice to precedent. Customary international law is founded on practice, on conduct, on precedent. Some say that, if customary law is the essence of international law, it does not mean that all states' authority are derived directly or solely from customary rules. At best, international law is an amalgam of both customary law and conventional law.

It is my point, and I think it is the case for those who support the legality of the NATO action, that without a UN resolution, each case in which force is being used must be studied on the facts of that case to determine whether such force was just under international law, and thus legal and consistent with international law.

I hope, honourable senators, that I will be able to elaborate on this more fully later next week. Meanwhile, this will allow other senators to at least give some thought to these propositions and, hopefully, to join in the debate.

I should like to move the adjournment of the debate.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, prior to the adjournment motion being put, I should like to ask one short question of Senator Grafstein.

Would Senator Grafstein not agree that the participation and the ratification by member states of the United Nations who have signed the Charter places very specific obligations and duties which are far more direct and immediate than the old tradition of the development of international law from the times of Francisco di Vitoria through Grotius?

It is not simply something that has grown out of the *jus gentium* through the international customary law, but under the UN Charter direct, immediate responsibilities and duties are assumed.

Senator Grafstein: The Honourable Senator Kinsella puts his finger on the issue. I should like to answer him in two ways. I do not intend to come back next week and use customary law alone as supporting the proposition that Canada's action under the NATO umbrella was legitimate, which I believe is the case.

The Honourable Senator Kinsella just tabled UN Resolution 1244, and honourable senators have not had an opportunity to review it. The document states that the Security Council bears in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council is for the maintenance of international peace and security.

We start with the proposition that, even in this resolution, the drafters have not gone to the extent that the proponents have of stating Canada and others have acted illegally, and that the United Nations is the sole or exclusive generator of international legitimacy. That is one proposition.

The second proposition is what happens — and this is the telling case — when the United Nations makes a declaration, that the world community of nations accepts, that is consistent with every norm of international law, that is, Srebrenica safe havens? What happens when the United Nations finds itself, for whatever reason, paralysed or unable to support its own mandate, and when thousands of innocent citizens following the UN Charter and following the declaration run to the flag of the safe haven and find that they are slaughtered along the way because the UN has failed to support, with force, its own mandate? That is a current case dated 1995-96.

I will give an example in domestic law. What happens if you, Senator Kinsella, challenge my leader, Senator Carstairs, and seek to bring violence to her, contrary to every rule of the Senate? The officers here are not here to protect Senator Carstairs and the rules say that I am not obliged to do that, but the Senate and the officers enforcing these rules are obliged to do that. Am I to stand by and not protect our innocent leader from your unlawful lunge?

I say that humorously, but to make the point that the world community decided that Srebrenica was to be a safe haven. Why? Because there was genocide; there was a breach of every international convention, all of which was accepted by the Federal Republic of Yugoslavia, yet the world stood still.

Does that mean that international law is hostage to paralysis? Does that mean that there is not an international law or principles of international law that flow and are alive and well, notwithstanding the paralysis of the so-called paramount source of international legitimacy? That cannot be a contention.

I will provide one further example which I think is a telling point. This issue was faced in domestic terms by Abraham Lincoln. It was contrary to the American Constitution for one state to bring violent force against another state. Yet, Lincoln decided to launch force against those states. He did so under the imperative that this was to preserve the Constitution itself.

Therefore, I conclude, honourable senators, by saying that the action in Kosovo was in defence of the failure of the United Nations to fulfil its own mandate. There are many resolutions of the United Nations that the world community will say are not justifiable. However, no one questioned the justifiability or the justness of these resolutions.

• (1830)

We saw it in front of our eyes. Therefore, I say that there are many principles of international law that say that international law must come to the rescue of international law in defence of international law. That is the essence of my argument.

Honourable senators, I now move the adjournment of the debate.

The Hon. the Speaker: I must warn you, Senator Grafstein, that there will be one minute left of the 15 minutes that he is allotted.

Senator Taylor: There is a God!

On motion of Senator Grafstein, debate adjourned.

YOUNG PEOPLE AND TOBACCO USE

INQUIRY

Hon. Colin Kenny rose pursuant to notice of April 20, 1999:

That he will call the attention of the Senate to the issue of youth and smoking.

Hon. Colin Kenny: Honourable senators, I rise today to speak on the issue of youth and smoking. I should like to begin my remarks by giving some context to this issue.

First, and most important, is the magnitude of the crisis that must be considered. Forty-five thousand Canadians die of smoking-related diseases and illness each year, and this is an increase of 5,000 from last year's estimates. Smoking is the number one cause of preventable deaths by a factor of ten. The next highest cause of preventable deaths is car accidents, including drunk driving, which are estimated at 4,000 deaths per year. Unless we do something, more Canadians will die from smoking-related diseases this year, and each year hereafter, than died in all five years of World War II.

Every Canadian family is touched by the suffering and pain from smoking, which can be attributed to endless lists of diseases.

Let us look at the kids. Eighty-five per cent of youth begin to smoke before the age of 16. Last year the age was 18. Almost 30 per cent of young Canadians smoke. The highest rates are in Quebec and the lowest in British Columbia. Right now in Canada there are 4 million young people between the ages of 10 and 19. One-third of these youths, or 1,400,000, will become smokers.

What makes this a crisis is that smoking is addictive. Pre-teens and teens get addicted to something that will eventually cause them to die seven years earlier than normal. It is estimated that 685 Canadian kids start to smoke every day. Given that 45,000 Canadians die every year from smoking, 450,000 from this decade of children will die prematurely unless prompt action is taken.

What has the government done about this crisis? The government deserves some credit, but we are still waiting for the key initiatives to appear. There have been some positive things: A complete ban on promotion and tobacco sponsorship, although a partial ban could have been in effect a year ago; passage of legislation which allows for restrictive regulation on the production, promotion, labelling and sale of tobacco, but we still do not know exactly what these regulations will be.

The government has made no commitment but has promised to consult on larger warnings on cigarette packages, perhaps 60 per cent larger. They will consult on in-store promotions directed at youth. They will consult about an aggressive media campaign and on a youth action committee.

During Non-Smoking Week in Canada this year, the minister, Mr. Rock, announced:

...I will continue to advocate strongly on behalf of an initiative like S-13, or an alternative that meets the standards that it has established.

Later this week I am going to announce the composition of a caucus committee that will be asked to develop proposals in this regard.

These are steps in the right direction, but let me put them in a broader context. The real problem is lack of proportionality. What are the economics of this issue? We know that \$2.3 billion is collected in taxes versus \$20 million that is spent on prevention. We also know that \$10 billion is spent on health costs, \$3 billion directly, \$7 billion indirectly. We are spending at the wrong end. Why do we not spend a little bit more at the front end to save a whole lot at the back end? It would be much more logical.

It is worth looking at history. First, let us look at the government's Tobacco Demand Reduction Strategy introduced in 1994. The good news is that the 1994 surtax allocated \$185 million in the first three years and spent \$103 million, or 56 per cent of it. The bad news is that the remainder disappeared into the Consolidated Revenue Fund, a total of \$81 million, and no one knows where it went or why it was not spent.

Then there is the Tobacco Control Initiative of 1996. There is more good news. In 1996, the government promised to spend \$10 million over five years. In 1997, the amount was doubled to \$20 million over five years, \$10 million for enforcement and \$10 million for education. It is on page 82 of the budget plan. There is more bad news. In the first six months of fiscal 1998, Health Canada spent only 2 per cent, that is \$200,000, on education, and only 55 per cent, \$5.5 million, of what it was to spend on enforcement. As of last week, Health Canada told me

that figures on total tobacco education and enforcement expenditures for the fiscal year were not yet available.

Let me put it in another context. If you look at page 82 of the budget plan, you will see that funding for HIV-AIDS is at an appropriate level, \$41 million per year. AIDS killed 670 Canadians last year, and that is tragic. If smoking prevention were funded proportionately, \$2.7 billion would be spent for anti-smoking, and surely the lives that would be saved are just as important.

Let me digress briefly and tell you the 1999 smuggling story. Canadians smoke Canadian cigarettes because they like them. Americans smoke American cigarettes because they like them, and generally Canadians do not smoke American cigarettes and vice versa.

Senator Corbin: Except in New Brunswick.

Senator Kenny: Except, perhaps, in some parts of New Brunswick.

In any event, there was a \$207-billion settlement in the United States in November of 1998 resulting in U.S. border prices becoming higher than ours, which logically would mean that the smuggling is going South, not North. The RCMP reports that 95 per cent of exported cigarettes return to Canada. Honourable senators, I repeat, 95 per cent of the cigarettes we export return to Canada. Out of the total 48.8 billion cigarettes produced, there is 1.465 billion cigarettes available for export.

The good news is that, in the 1999 budget, Mr. Martin moved on this issue. The bad news is that he reduced the amount that you could export tax-free from 3 per cent to 2.5 per cent. This means that the number of cigarettes available for export has been reduced from 1.465 billion to 1.221 billion. Why not eliminate the exemption altogether, tax all exports at domestic rates, and close the loop entirely? We would save police costs, we would eliminate smuggling, we would raise revenues, and we would encourage the provinces to return to the 1994 level of excise taxes.

Turning to the international context, Massachusetts spends \$9 per capita on anti-tobacco programs. Cigarette consumption has fallen there by 31 per cent since 1992. Florida spends \$7.50 per capita. Youth smoking in grades 6 to 8 dropped 19 per cent in one year. California spends \$4 per capita, and the overall smoking rate was reduced by 36 per cent over a three-year period. California's youth smoking rate is currently 12 per cent. In comparison, Canada's youth smoking rate is almost 30 per cent, and we spend \$0.65 per capita.

• (1840)

The message is simple: First, you need the political will and significant resources, say between \$4 to \$8 per capita or, better yet, the model that the Centre for Disease Control in Atlanta recommends, namely, \$5 to \$16 U.S. per capita. You will get significant results on the order of 30 per cent decrease in smoking within three years. This model is based on a funding allocation formula with nine categories, and should be the benchmark for all jurisdictions, including Canada.

I should now like to comment on Bill S-13 and how it came about. The Tobacco Act, Bill C-71, was passed in the Senate in April of 1997. The Tobacco Act placed restrictions on tobacco product, promotion and advertising. It provided for a transitional period of one year before the main sponsorship provisions came into effect. However, there was no funding for education, no transitional funding for arts, sports or farmers, and there was no time to find replacement funding. This produced political problems in Quebec and in Montreal, in particular.

As an aside, I must have had 50 lobbyists come through my office, but none of them were tobacco companies. All of them were surrogates addicted to tobacco money, for example, the Neptune Theatre, the Moose Jaw track and field, and the Sarnia Symphony. These are all perfectly good groups who were all interested in what they were doing, but because they were getting tobacco funding, they were there to protect the tobacco companies.

The genesis of Bill S-13 was an amendment that I proposed on Bill C-71. It introduced stable funding through a levy for industry purposes, namely, \$120 million a year — \$60 million for youth, \$50 million for culture and sport, \$10 million for farmers — and they were to phase out over a five-year period. It was all to end up eventually going to youth education. It was to be overseen by an arm's length foundation. However, Bill C-71 was a priority bill which the government was committed to passing prior to an election which was expected the next week. With the combination of the election and government pressure, in the end, health groups withdrew their support for my amendments. Their view was that half a loaf was better than no loaf. I abstained from my own amendments, and Bill C-71 passed as written.

I licked my wounds and began to work on a new bill. The result was seven months of extensive consultation. With the outstanding and exceptional collaboration of Senator Nolin, we introduced Bill S-13, the Tobacco Industry Responsibility Act, in February of 1998. The bill was a significant improvement over the original amendments, a direct result of the consultations that we had with health groups and other groups across the country, and I began travelling to see if we had support for the bill.

The government subsequently introduced Bill C-42, which gave a five-year phase-out for tobacco promotion and advertising. Bill S-13 was amended to remove transitional funding for culture, sports and farmers. The farmers did not want it; neither did either the culture or sports groups. The latter two groups, in fact, said that they trusted tobacco companies more than they trusted the government. Bill S-13, the Tobacco Industry Responsibility Act, became entirely a health bill with all \$120 million of funding directed to a foundation to prevent young people from smoking, or to help them in quitting.

What have we learned since the health groups and some governments have been seized with the tobacco problem and its potential solutions? Arguably, the most important element for effective anti-tobacco campaigns for youth is stable, long-term

funding. Why? Because programs are stepped midway, and right now there is no evaluation of the programs. In California, they mandate 10 per cent of every dollar spent for evaluation. They want to see the winners and the losers, and separate the two.

Groups stop each fiscal year waiting for funding. California provided stable funding with Proposition 99. This was a direct vote by the people, imposed on the legislature. A levy is the closest vehicle we have in the Canadian context to emulate Proposition 99. It is procedurally correct. We have five precedents, including the one on blank audiotapes that this government introduced. It also provides a stable source of funds. Nothing raised ends up in the Consolidated Revenue Fund, the money is spent where it was intended to be spent, and it is not subject to diversion.

Next, a vehicle at arm's length from the government. Why? It limits political interference. California had problems with censorship and an effort to re-direct the funds. Florida had interference and eventually was cut off. Massachusetts got cut backs on its funding without any notice at all. All these jurisdictions suffer from having their programs run within government departments.

Finally, I wish to address the magnitude of the program. In this case, bigger really is better. All successful programs have at least \$4 U.S. per capita for funding. The Centre for Disease Control and Prevention in Atlanta recommends \$5 to \$16 U.S. for jurisdictions the size of Canada.

The Hon. the Speaker: Honourable Senator Kenny, I regret to have to interrupt you but your 15-minute allotted period has expired. Are you requesting leave?

Senator Kenny: Yes. May I have leave?

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Kenny: To recap, order of magnitude, a minimum of \$8 Canadian per capita, stable and consistent funding, and arm's length to deter political interference.

Having learned these lessons, how did we make Bill S-13 happen? We started with op-eds around the country. This was really an education process. It evolved into a national movement with its own momentum. People did not have the basic facts. They did not know that 85 per cent of smokers started before the age of 16 or that 45,000 people died, or the success of California, et cetera.

To get attention for the bill, we tried a variety of things. Visits across Canada both created media coverage and searched out media coverage, and speeches and meetings were held with interested Canadians. Soon, there was a growing network of committed groups which wanted to become involved. This caused my office to be swamped with approximately 4,000 demands for assistance and background on the issue. People

wanted to know, "Who is my MP? What will the government do? How can I get funding? What can we do to make Bill S-13 a reality?" We were deluged with e-mails, phone calls, faxes, and visits. Demands on the office created the need for a larger staff. We ended up with three to eight full-time, part-time and volunteer staff, and they worked between 50 to 60 hours per week.

During the summer and fall of 1998, the office replied or sent out 5,500 pieces of correspondence. Many more thousands of letters were received by MPs and ministers in Ottawa and in their constituencies in support of Bill S-13. Over 2,000 calls were made — so many that we lost track of how many requests were made for information on how to support the bill. We recorded approximately 2,276 visits to the Web site, which featured Bill S-13 issues, and eventually we had over 200 events and meetings. The meetings ranged from addressing schools, national health clubs and Canadian clubs to individual cancer units. Then there was travel — lots of it.

There is no way to get the message out by staying in Ottawa. Over the year, I participated in meetings and events in 24 cities, several of them two or three times. Each city visit represented an average of four meetings per visit, not including media events. This was at a cost of \$59,000 over the course of the fiscal year.

The initial media coverage created interest, the interest created invitations to speak across the country, and the trips resulted in more media coverage. Over the 12-month period there were 21 positive editorials or columns in the national media, because we went to them. There was one undecided editorial — and, of course it was in my home town paper, *The Ottawa Citizen*. I suspect that Jack Aubrey was the guest editorialist that day. There were 67 electronic media interviews. As well, 950 community papers received articles or columns, and 153 English and French cable and TV stations received interviews taped in Ottawa by Senator Nolin and myself.

• (1850)

All the public interest in education resulted in 566 endorsements from groups across Canada from every province and 38 municipalities. A broad coalition of groups indicated their support for Bill S-13, from the Cancer Society to Big Brothers to CAW locals to Seventh-day Adventists, and once Canadians understood the proposal, there was overwhelming approval. According to a national poll carried out by Environics with a sample of 2,002, which is accurate plus-or-minus 3 per cent 19 times out of 20, in the spring of 1998, 67 per cent approved of the bill and 53 per cent of smokers approved of the bill. After six months of campaigning in the fall of 1998, 76 per cent of Canadians approved of the bill, and 83 per cent of youth between the ages of 18 and 29 supported the bill.

Honourable senators, I view the entire exercise as an investment in children's health. Fighting tobacco is an inexpensive undertaking, even at \$5 to \$16 per Canadian. There are 1.4 million children between the ages of 10 and 19 smoking in Canada today. If we do not act now, a third of them will die

seven years prematurely. If we cut the number of smokers in Canada by 30 per cent, this decrease would work its way into the health system and cause savings of billions of dollars, which would be true savings that could be reallocated.

Eight colleagues felt this issue was important. They pooled their budgets for Bill S-13. The budget available for the campaign grew to \$204,000, plus the \$59,000 I spent on travel. This is twice the size of my normal budget, but it is also estimated at about half the annual salary of an Ottawa tobacco lobbyist.

Let us put it in perspective: Over the same 12-month period, the industry spent \$120 million on sponsorship and pointed self-promotion. The industry spends millions more on lobbying and PR. Again, it is a question of promotion and of proportion.

Honourable senators, the government effort is disproportionate to the taxes it receives. The health community's resources are disproportionate to the tobacco industry's profits. Our resources, as legislators, are disproportionate to the tobacco industry's lobbying and promotion, and Bill S-13 was an effort to even things up a little bit.

I would be remiss not to thank Senators De Bané, Hébert, Lawson, Lucier, Sparrow, Stanbury, Gigantes and Wood. All of them helped contribute to the campaign. To all the groups that took part and gave their time to endorse the bill, and to the thousands of Canadians who wrote letters, from health care workers to grade school children to concerned citizens across the country, thank you.

What have we all accomplished? Bill S-13 provided a focus for the health community and parliamentarians in developing solutions to the problem of smoking-related disease in Canada. It was an exercise in coalition building that provided a platform for Canadians to communicate the impact of tobacco on their children. It increased the awareness for the need to denormalize the tobacco industry. The public is now more aware of its ploys to target children to maintain customers. Most important, there is a greater awareness of the imbalance between the magnitude of the problem and the funding the government has committed, and therefore a greater appreciation for the need to get moving.

We are counting on some action. The government has indicated concern and demonstrated some leadership on the issue of smoking and tobacco-related diseases. I highlighted earlier that the government has introduced numerous positive initiatives which could contribute to reducing the smoking rate among Canadians, but the key one, the lynchpin, is not there yet.

Last January during Non-Smoking Week, the Minister of Health announced that the Health Caucus Committee would be given a mandate to look at a replacement for Bill S-13. The caucus committee has now delivered its report to the minister. We need those responsible for health policy to make Bill S-13, or an equivalent, a reality so Canadians can also share in the success that other jurisdictions have had.

Time is precious. We all know it takes time and a great deal of consultation to get policy developed and programs in place. It was only reasonable to give the government time to deliver on its promises and initiatives. However, we cannot afford to wait too long. Time is precious. Every day, 685 kids start smoking in Canada. The time to act is now. How long can we wait for the minister to deliver on his commitment? Sometimes I feel like I am caught between a "Rock" and a hard place.

There are three things on which we want the government to move. The first is replacement legislation for Bill S-13. If the government continues to have trouble producing a replacement, I have a revised bill which is procedurally stronger as a replacement for Bill S-13. Bill S-13B was written to address the Speaker's ruling last December in the other place.

Second, it is time to address the tax-free export exemption. Smuggling is cited as a disincentive to increasing tobacco taxes, but smuggling will continue until the export of almost 1.5 billion cigarettes tax free is stopped. Eliminate this financial incentive and there will be millions fewer cigarettes for our kids to buy.

Finally, we need an increase in taxes on tobacco. It is time for the federal government and the five provinces to reinstate the 1994 excise tax levels. This has a major impact on youth smoking. If the five provinces do not want to move now, the federal government needs to serve notice that it will act unilaterally to raise taxes back up because smuggling need not be a problem.

Prompt attention to these three issues by the government will save the lives of literally thousands of Canadians. Remember, 450,000 between the ages of 10 and 19 will become addicted in the next decade. Prompt action will save the federal and provincial governments billions of health dollars starting as soon as three years from now. Prompt intervention is the right thing to do, and now is the right time to do it.

Hon. Senators: Hear, hear!

Hon. Pierre Claude Nolin: I am sure my colleague will entertain some questions.

One piece of good news was the surtax established in 1994. Could the honourable senator give us some numbers on how much money was raised and how much of the surtax was spent? For the benefit of my colleagues, I am referring to the surtax on tobacco manufacturers.

Senator Kenny: Yes, honourable senators. I can.

In 1994 there was a tremendous smuggling problem. The governments of Quebec, Ontario, New Brunswick, Nova Scotia and Prince Edward Island, together with the federal government, agreed to substantially reduce their excise taxes to stop smuggling. At the same time, the federal government, in order to compensate for that, introduced a surtax of \$185 million specifically for tobacco-related education. It was earmarked for tobacco-related education, but the government spent only

56 per cent of it. It spent only \$103 million, and the remaining \$81 million is down the memory hole somewhere. It disappeared into the Consolidated Revenue Fund. So far, no parliamentarian has been able to get an answer as to where the money went or why it was not spent on tobacco education.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, this inquiry shall be considered debated.

• (1900)

NATIONAL COUNCIL OF WELFARE

REPORT ON PRESCHOOL CHILDREN— INQUIRY—DEBATE ADJOURNED

Hon. Erminie J. Cohen rose pursuant to notice of April 20, 1999:

That she will call the attention of the Senate to a report by the National Council of Welfare entitled, "Preschool Children: Promises to Keep."

She said: Honourable senators, I wish to call the attention of the Senate to a recent report by the National Council of Welfare entitled "Pre-School Children: Promises to Keep."

I congratulate the National Council of Welfare for producing this excellent report and reminding us once again that the issue of national childcare is important and just will not go away. It is a need which warrants our serious consideration. Somewhere along the way, this issue has been neglected by all governments. We must act quickly to ensure that a national childcare policy be a priority on the government agenda.

During the past decade, the decisions by the federal government to retreat from childcare funding has led to a huge shortage of daycare spaces for our children. The report "Childcare in Canada" by the University of Toronto's Childcare Resource and Research Unit tells us that, in 1995, there were over 5 million children in Canada between birth and age 12. Over 3 million of these children had mothers who were in the paid labour force.

Unfortunately, only a fraction of children with parents in the labour force are in regulated childcare. Canada has only 425,000 regulated spaces available — enough room for about 8.5 per cent of the Canadian children who require daycare.

As my honourable colleague Senator Spivak pointed out in her response to the Budget, on April 15:

Years of government reductions — all sorts of governments — in transfer payments to the provinces has hit childcare particularly hard. Licensed childcare spaces have been lost in response to the substantial decline in federal transfers.

Today in Ontario, parents are scrambling for licensed childcare. They are placing the names of unborn children on growing waiting lists. In Toronto last summer, the vacancy rate in the city's 725 licensed daycare centres dropped to zero for the first time ever. In Quebec, a recent report tells us that 100,000 new spaces — double the number now available — will be needed within six years. Within the next decade, the granddaughters and grandsons of the baby boom generation will begin arriving...A difficult situation will grow worse unless the federal government intervenes.

Honourable senators, we know that many children in Canada are not thriving as we would like. The picture is not a pretty one. Many suffer from the effects of family breakdown, poverty and the stresses of family life when both parents must work long hours to make ends meet. We also know that our government made a promise ten years ago to Canadian children to end their poverty by the year 2000. This was followed by another promise made to Canadian children in 1991 when the government ratified the UN Convention on the Rights of the Child and made commitments to provide special recognition for children and an adequate standard of living for families.

We must ask ourselves, did these promises make a difference? How have our children benefited? Unfortunately, since that time, child poverty rates have continued to soar, divorce rates remain at about the 50 per cent mark, and family instability is a reality for many young children who suffer both the loss of a parent and material comforts, because families headed by single parents are far more likely to be poor than two-parent families.

Funding for the basic necessities which children require, such as social services, health care, education, has been drastically reduced by all governments in the past decade. In fact, our national policies have all but abandoned our children in recent years. Changes to the Child Benefit Program have helped some low-income families but not others. They are a stark reminder that our governments are not creating universal programs to help all our children.

Instead, the federal government is simply using the tax and transfer system to redistribute dollars to the lower-income families who participate in the paid labour force to assist them with their childcare costs. However, these parents receive only a fraction of what regulated daycare actually costs and must usually rely on substandard care.

In an effort to get the needs of families back on the agenda, the National Council of Welfare recommends an integrated system of family policies that work together to support parents to take care of their children. The centrepiece of this family policy is affordable, high-quality childcare, and their view that childcare is the most important step that governments can make to help families with young children is a logical one because it benefits both the parents and the child.

First, it allows parents, especially mothers, the opportunity to work. This is important in an era where families generally require two incomes to survive.

Second, quality childcare provides a system of early childhood education that ensures that all children have an equal chance of good development. Parents who choose to stay at home with young children would have the opportunity to enroll children in part-time nursery school programs.

This program is very similar to the system proposed by Status of Women Canada in their 1998 report "Women's Support, Women's Work" advocating a national childcare system which would be comprehensive, universally available, affordable and of high quality.

The National Council on Welfare also sees a national daycare program as the best way to fight child and family poverty. A report by Sharon Irwin and Donna Lero entitled "In Our Way: childcare Barriers to Full Workforce Participation" shows us that the lack of affordable, high-quality childcare is the biggest barrier to workforce participation of low-income mothers. They concluded that the incident of childcare breakdown, even if it seldom happens, serves to prove to low-income mothers that abandoning employment and staying home to provide care to children is the only option which they can trust. This decision results in significant financial sacrifice.

This is just one of many studies which illustrates how reliable, affordable childcare assists many families who want to enter the workforce. We know that families with parents in the labour market are less likely to live in poverty, especially severe poverty.

For single parents under 25, the poverty incident climbs to a staggering rate of over 90 per cent. In this case, it is impossible for the household to have any labour market income without childcare. The poorest Canadians are those who must rely on social services alone. Parents who receive social assistance have told governments again and again of the need for safe and affordable childcare.

Yet when governments design programs to help parents in their transition from welfare to work, it is assumed a neighbour would be available at a minimal cost for childcare. This is often not the case. Even if it were, many mothers are hesitant to leave their children in unregulated settings.

It seems, honourable senators, that they have good reasons for their misgivings, childcare studies conducted in 1986 and 1987 show that unsupervised private care providers give only adequate custodial-type care. They found that unlicensed family childcare had consistently lower scores than licensed family care and regulated centres.

The problems in the informal childcare were numerous. Many children were not taken outside to play. Caregivers did not read, sing or play with the children. Many children spent their day watching television, and most caregivers had too many children to care for any of them adequately.

We cannot expect low-income parents to leave their children in undesirable settings, places where we would not want our children or grandchildren to be. This, honourable senators, must be reflected in our welfare policies.

Assisting parents to participate in the paid workforce is perhaps the most important strategy for addressing child poverty. Yet many of those who oppose publicly funded childcare have argued that we cannot afford it. However, in this new economy, the debate must shift to one which considers childcare as an investment.

In "The Benefits and Costs of Good Childcare" a report by the University of Toronto childcare unit, the authors conclude that there is now enough literature on the relationship of quality, early childhood programs and healthy child development to allow us to factor in child outcomes when we look at the cost-benefit analysis of publicly funded childcare.

What are these development benefits? They include lower cost in the child's future education and a reduction in correctional social service and health costs. The High/Scope Perry Preschool Program Study in the United States produced an often-quoted report which estimated a savings of about \$7 for every dollar spent on licensed childcare.

• (1910)

Perhaps, honourable senators, the most important benefit is the end result: A well-educated citizen who is more likely to participate in the labour market. It may also be the solution to the current problem of our lagging productivity. A national childcare system serves two purposes in this regard: First, it maximizes the productivity of the existing workforce. A recent major study found that the productivity problem, or standard of living problem, as it has been renamed by the government, is the result of too few Canadians participating in the labour force.

The study also shows that workers who worry about unreliable or substandard childcare arrangements are less productive in the workplace and have high levels of absenteeism. Affordable, consistent childcare is bound to bring more workers into the workforce and allow them to concentrate on the task at hand. This increases productivity and morale.

The federal government has declared its commitment to the Convention on the Elimination of all forms of Discrimination Against Women. Article 11.2(c) of this convention states that the signatories — and Canada was one — should take measures to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participate in public life, particularly through promoting the establishment and development of a network of childcare facilities.

However, what happens in practice could not be further from that. The Canadian Centre for Management Development released a report in 1994 on employed mothers which concluded that most mothers find the demands of work and family

overwhelming, and they often feel like terminating their employment.

Last fall, *The Globe and Mail* published a Carleton University study showing that our public service discriminates against women with families. The study concluded that having children presents a formidable obstacle to women's advancement up the managerial ladder in our federal government. This is surprising, honourable senators, when one considers that the public service tends to be one of the more progressive employers. Other sectors tend to be even less flexible in considering family responsibilities. The end result is stress, family breakdown, and poverty for Canadian women who may be forced to choose between having a family and working outside the home.

Honourable senators, the government's Red Book promised a significant increase in the number of childcare spaces. They made such a promise, one can only assume, because they understood the importance of childcare when formulating family policy. Still, there has been an erosion of spaces since they took office.

Honourable senators, I believe that to improve the lives of our nation's children we must demand federal leadership for our social programs once again. The best and most effective place to start is with the creation of a national childcare system which is universal, affordable, comprehensive, and of high quality. Our families deserve it, our nation deserves it, our future deserves it, but most of all our children deserve it.

On motion of Senator Cohen, for Senator Pépin, debate adjourned.

SOLUTIONS TO TOBACCO PROBLEM

INQUIRY— ORDER WITHDRAWN

Hon. Colin Kenny rose pursuant to notice of May 13, 1999:

That he will call the attention of the Senate to solutions to the tobacco problem.

He said: Honourable senators, with permission, I should like to have this item taken off the Order Paper.

Order withdrawn.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne, pursuant to notice of June 8, 1999, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit while the Senate is sitting on Monday next, June 14, 1999, and that rule 95(4) be suspended in relation thereto.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):
Honourable senators, at what time on Monday is the committee planning to sit?

Senator Milne: The committee is scheduled to begin at 10:45 Monday morning with a long list of witnesses. We plan to hear the minister on Bill C-69. We hope to have completed our list of witnesses before the Senate commences.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

FOREIGN PUBLISHERS ADVERTISING SERVICES BILL

CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-55, respecting advertising services supplied by foreign periodical publishers, to acquaint the Senate that the House of Commons has agreed to the amendments made by the Senate to this bill, without amendment.

The Senate adjourned until Monday, June 14, 1999 at 4 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 36th Parliament)

Thursday, June 10, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to amend the Canadian Transportation Accident Investigation and Safety Board Act and to make a consequential amendment to another Act (Sen. Graham)	97/09/30	97/10/21	Transport and Communications	98/04/02	four	98/05/27	98/06/18	20/98
S-3	An Act to amend the Pension Benefits Standards Act, 1985 and the Office of the Superintendent of Financial Institutions Act (Sen. Graham)	97/09/30	97/10/21	Banking, Trade and Commerce	97/11/05	seven	97/11/20	98/06/11	12/98
S-4	An Act to amend the Canada Shipping Act (maritime liability) (Sen. Graham)	97/10/08	97/10/22	Transport and Communications	97/12/12	three	97/12/16	98/05/12	06/98
S-5	An Act to amend the Canada Evidence Act and the Criminal Code in respect of persons with disabilities, to amend the Canadian Human Rights Act in respect of persons with disabilities and other matters and to make consequential amendments to other Acts (Sen. Graham)	97/10/09	97/10/29	Legal and Constitutional Affairs	97/12/04	one	97/12/11	98/05/12	09/98
							Senate agreed to Commons amendments		
							98/05/06		
S-9	An Act respecting depository bills and depository notes and to amend the Financial Administration Act (Sen. Graham)	97/12/03	97/12/12	Banking, Trade and Commerce	98/02/24	one	98/03/19	98/06/11	13/98
S-16	An Act to implement an agreement between Canada and the Socialist Republic of Vietnam, an agreement between Canada and the Republic of Croatia and a convention between Canada and the Republic of Chile, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	98/05/05	98/05/12	Foreign Affairs	98/05/28	none	98/06/02	98/12/03	33/98
S-21	An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts	98/12/01	98/12/03	Whole	98/12/03	one at 3rd	98/12/03	98/12/10	34/98
S-22	An Act authorizing the United States to preclear travellers and goods in Canada for entry into the United States for the purposes of customs, immigration, public health, food inspection and plant and animal health	98/12/01	99/02/11	Foreign Affairs	99/03/24	four	99/04/28		

S-23 An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air and to give effect to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier 98/12/10 99/02/03 Transport and Communications 99/03/11 none 99/03/16

C-2 An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts 97/12/04 97/11/21/16 Committee of the whole 97/12/17 97/11/21/17 none 97/12/18 97/12/18 40/97

S-23 An Act to amend the Carriage by Air Act to give effect to a Protocol to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier 98/12/10 99/03/11 Transport and Communications 99/03/11 none 99/03/16

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-2	An Act to establish the Canada Pension Plan Investment Board and to amend the Canada Pension Plan and the Old Age Security Act and to make consequential amendments to other Acts	97/12/04	97/11/21/16	Committee of the whole 97/12/17	97/11/21/17	none	97/12/18	97/12/18	40/97
C-3	An Act respecting DNA identification and to make consequential amendments to the Criminal Code and other Acts	98/09/30	98/10/22	Legal and Constitutional Affairs	98/12/08	none	98/12/09	98/12/10	37/98
C-4	An Act to amend the Canadian Wheat Board Act and to make consequential amendments to other Acts	98/02/18	98/02/26	Agriculture and Forestry	98/05/14	five	98/05/14	98/06/11	17/98
C-5	An Act respecting cooperatives	97/12/09	97/11/2/16	Banking, Trade and Commerce	98/02/24	none	98/02/25	98/03/31	01/98
C-6	An Act to provide for an integrated system of land and water management in the Mackenzie Valley to establish certain boards for that purpose and to make consequential amendments to other Acts	98/03/18	98/03/26	Aboriginal Peoples	98/06/09	none	98/06/18	98/06/18	25/98
C-7	An Act to establish the Saguenay-St.Lawrence Marine Park and to make a consequential amendment to another Act	97/11/25	97/11/20/2	Energy, Environment and Natural Resources	97/11/20/9	none	97/12/10	97/12/10	37/97
C-8	An Act respecting an accord between the Governments of Canada and the Yukon Territory relating to the administration and control of and legislative jurisdiction in respect of oil and gas	98/03/17	98/03/25	Aboriginal Peoples	98/03/31	none	98/04/01	98/05/12	05/98
C-9	An Act for making the system of Canadian ports competitive, efficient and commercially oriented, providing for the establishing of port authorities and the divesting of certain harbours and ports, for the commercialization of the St. Lawrence Seaway and ferry services and other matters related to maritime trade and transport and amending the Pilotage Act and amending and repealing other Acts as a consequence	97/12/09	98/03/26	Transport and Communications	98/05/13	none	98/05/28	98/06/11	10/98

C-10	An Act to implement a convention between Canada and Sweden, a convention between Canada and the Republic of Lithuania, a convention between Canada and the Republic of Kazakhstan, a convention between Canada and the Republic of Iceland and a convention between Canada and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to amend the Canada-Netherlands Income Tax Convention Act, 1986 and the Canada-United States Tax Convention Act, 1984	97/12/02	97/12/08	Banking, Trade and Commerce	97/12/09	none	97/12/10	97/12/10	38/97
C-11	An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof.	97/11/19	97/11/27	Banking, Trade and Commerce	97/12/04	none	97/12/08	97/12/08	36/97
C-12	An Act to amend the Royal Canadian Mounted Police Superannuation Act	98/04/28	98/04/30	Social Affairs, Science & Technology	98/06/04	none	98/06/08	98/06/11	11/98
C-13	An Act to amend the Parliament of Canada Act	97/10/30	97/11/05	Legal and Constitutional Affairs	97/11/06	none	97/11/18	97/11/27	32/97
C-15	An Act to amend the Canada Shipping Act and to make consequential amendments to other Acts	98/05/05	98/06/03	Transport and Communications	98/06/10	none	98/06/11	98/06/11	16/98
C-16	An Act to amend the Criminal Code and the Interpretation Act (powers to arrest and enter dwellings)	97/11/18	97/12/11	Legal and Constitutional Affairs	97/12/16	none	97/12/17	97/12/18	39/97
C-17	An Act to amend the Telecommunications Act and the Teleglobe Canada Reorganization and Divestiture Act	97/12/09	98/02/24	Transport and Communications	98/03/25	none	98/04/29	98/05/12	08/98
C-18	An Act to amend the Customs Act and the Criminal Code	98/02/10	98/02/18	Legal and Constitutional Affairs	98/04/02	none	98/04/28	98/05/12	07/98
C-19	An Act to amend the Canada Labour Code (Part I) and the Corporations and Labour Unions Returns Act and to make consequential amendments to other Acts	98/05/26	98/06/08	Social Affairs, Science & Technology	98/06/18	none	98/06/18	98/06/18	26/98
C-20	An Act to amend the Competition Act and to make consequential and related amendments to other Acts	98/09/24	98/11/17	Banking, Trade and Commerce	98/12/03	none + two at 3rd	98/12/10	99/03/11	02/99
									Commons amendments referred to Committee 99/02/11
							99/02/16	concur in Commons amendments	

C-21	An Act to amend the Small Business Loans Act	98/03/19	98/03/25	Banking, Trade and Commerce	98/03/26	none	98/03/31	98/03/31	04/98
C-22	An Act to Implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	97/11/25	97/11/26	Foreign Affairs	97/11/27	none	97/11/27	97/11/27	33/97
C-23	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	97/11/26	97/11/204	—	—	—	97/12/08	97/12/08	35/97
C-24	An Act to provide for the resumption and continuation of postal services	97/12/02	97/12/03	Committee of the whole	97/12/03	none	97/12/03	97/12/03	34/97
C-25	An Act to amend the National Defence Act and to make consequential amendments to other Acts	98/06/11	98/06/18	Legal and Constitutional Affairs	98/11/24	one	98/12/01	98/12/10	35/98
C-26	An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act	98/06/08	98/06/16	Agriculture and Forestry	98/06/18	none	98/06/18	98/06/18	22/98
C-27	An Act to amend the Coastal Fisheries Protection Act and the Canada Shipping Act to enable Canada to implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and other international fisheries treaties or arrangements	99/04/21	99/04/27	Fisheries	99/05/13	none	99/05/13		
C-28	An Act to amend the Income Tax Act, the Income Tax Application Rules, the Bankruptcy and Insolvency Act, the Canada Pension Plan, the Children's Special Allowances Act, the Companies' Creditors Arrangement Act, the Cultural Property Export and Import Act, the Customs Act, the Customs Tariff, the Employment Insurance Act, the Excise Tax Act, the Federal-Provincial Fiscal Arrangements Act, the Income Tax Conventions Interpretation Act, the Old Age Security Act, the Tax Court of Canada Act, the Tax Rebate Discounting Act, the Unemployment Insurance Act, the Western Grain Transition Payments Act and certain Acts related to the Income Tax Act	98/04/28	98/05/12	Banking, Trade and Commerce	98/06/04	none	98/06/16	98/06/18	19/98
C-29	An Act to establish the Parks Canada Agency and to amend other Acts as a consequence	98/06/03	98/06/15	Energy, the Environment and Natural Resources	98/10/20	none	98/11/19	98/12/03	31/98
C-30	An Act respecting the powers of the Mi'kmaq of Nova Scotia in relation to education	98/06/11	98/06/16	Aboriginal Peoples	98/06/18	none	98/06/18	98/06/18	24/98

C-31	An Act respecting Canada Lands Surveyors	98/05/07	98/05/26	Energy, the Environment and Natural Resources	98/06/09	none	98/06/10	98/06/11	14/98
C-32	An Act respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development	99/06/02	99/06/08	Energy, the Environment and Natural Resources	—	—	98/03/26	98/03/31	02/98
C-33	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1998	98/03/18	98/03/25	—	—	—	—	—	—
C-34	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/03/18	98/03/26	—	—	—	98/03/31	98/03/31	03/98
C-35	An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act	98/12/07	99/02/17	Foreign Affairs	99/03/24	none	99/03/25	99/03/25	12/99
C-36	An Act to implement certain provisions of the budget tabled in Parliament on February 24, 1998 consequential amendments to other Acts	98/05/28	98/06/08	National Finance	98/06/15	none	98/06/17	98/06/18	21/98
C-37	An Act to amend the Judges Act and to make consequential amendments to other Acts	98/06/11	98/09/22	Legal and Constitutional Affairs	98/10/22	eight	98/11/04	98/11/18	30/98
C-38	An Act to amend the National Parks Act (creation of Tuktut Nogait National Park)	98/06/15	98/06/17	Energy, the Environment and Natural Resources	98/12/01	none	98/12/10	98/12/10	39/98
C-39	An Act to amend the Nunavut Act and the Constitution Act, 1867	98/06/03	98/06/08	Aboriginal Peoples	98/06/09	none	98/06/10	98/06/11	15/98
C-40	An Act respecting extradition, to amend the Canada Evidence Act, the Criminal Code, the Immigration Act and the Mutual Legal Assistance in Criminal Matters Act and to amend and repeal other Acts in consequence	98/12/02	98/12/10	Legal and Constitutional Affairs	99/03/25	none	99/05/12	—	—
C-41	An Act to amend the Royal Canadian Mint Act and the Currency Act	98/12/02	98/12/09	National Finance	99/02/18	none	99/03/02	99/03/11	04/99
C-42	An Act to amend the Tobacco Act	98/12/02	98/12/08	Legal and Constitutional Affairs	98/12/10	none	98/12/10	98/12/10	38/98
C-43	An Act to establish the Canada Customs and Revenue Agency and to amend and repeal other Acts as a consequence	98/12/08	99/02/10	National Finance	99/03/18	none	99/04/27	99/04/29	17/99
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	28/98
C-46	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/06/10	98/06/16	—	—	—	98/06/17	98/06/18	29/98
C-47	An Act to amend the Parliament of Canada Act; the Members of Parliament Retiring Allowances Act and the Salaries Act	98/06/11	98/06/16	Banking, Trade and Commerce	98/06/17	none	98/06/18	98/06/18	23/98

C-49	An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management	99/03/09	99/04/13	Aboriginal Peoples	99/05/13	2	99/05/13
C-51	An Act to amend the Criminal Code, the Controlled Drugs and Substances Act and the Corrections and Conditional Release Act	98/11/18	98/12/03	Legal and Constitutional Affairs	99/03/04	none	99/03/09
C-52	An Act to implement the Comprehensive Nuclear Test-Ban Treaty	98/10/20	98/10/28	Foreign Affairs	98/11/18	one	98/11/24
C-53	An Act to increase the availability of financing for the establishment, expansion, modernization and improvement of small businesses	98/11/25	98/12/02	Banking, Trade and Commerce	98/12/08	none	98/12/09
C-55	An Act respecting advertising services supplied by foreign periodical publishers	99/03/16	99/03/24	Transport and Communications	99/05/31	3	99/06/08
C-57	An Act to amend the Nunavut Act with respect to the Nunavut Court of Justice and to amend other Acts in consequence	98/12/07	98/12/10	Legal and Constitutional Affairs	99/02/18	none	99/03/02
C-58	An Act to amend the Railway Safety Act and to make a consequential amendment to another Act	99/02/02	99/02/11	Transport and Communications	99/03/17	none	99/03/18
C-59	An Act to amend the Insurance Companies Act	98/12/10	99/02/04	Banking, Trade and Commerce	99/02/16	none	99/02/18
C-60	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	98/12/02	98/12/08	—	—	—	98/12/09
C-61	An Act to amend the War Veterans Allowance Act, the Pension Act, the Merchant Navy Veteran and Civilian War-related Benefits Act, the Department of Veterans Affairs Act, the Veterans Review and Appeal Board Act and the Halifax Relief Commission Pension Continuation Act and to amend certain other Acts in consequence thereof	99/03/16	99/03/18	Social Affairs, Science & Technology	99/03/23	none	99/03/24
C-64	An Act to establish an indemnification program for travelling exhibitions	99/05/31	99/06/03	Social Affairs, Science & Technology	99/06/10	none	99/03/25
C-65	An Act to amend the Federal-Provincial Fiscal Arrangements Act	99/03/11	99/03/16	National Finance	99/03/23	none	99/03/24
C-66	An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act	99/05/11	99/05/11	Social Affairs, Science & Technology	99/06/10	none	99/03/25
C-67	An Act to amend the Bank Act, the Winding-up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts	99/05/31	99/06/03	Banking, Trade and Commerce	99/06/10	none	11/199

C-69	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/05/31	99/06/08	Legal and Constitutional Affairs	
C-71	An Act to implement certain provisions of the budget tabled in Parliament on February 16, 1999	99/05/11	99/05/12	National Finance	99/06/03
C-72	An Act to amend the Income Tax Act, to implement measures that are consequential on changes to the Canada-U.S. Tax Convention (1980) and to amend the Income Tax Conventions Interpretation Act, the Old Age Security Act, the War Veterans Allowance Act and certain Acts related to the Income Tax Act	99/05/11	99/05/13	Banking, Trade and Commerce	99/03/31
C-73	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 1999	99/03/17	99/03/23	—	—
C-74	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/03/17	99/03/24	—	—
C-76	An Act to provide for the resumption and continuation of government services	99/03/24	99/03/24	Committee of the Whole 99/03/25	99/03/25
C-78	An Act to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act	99/05/31	99/06/03	Banking, Trade and Commerce	
C-79	An Act to amend the Criminal Code (victims of crime) and another Act in consequences	99/05/31	99/06/08	Legal and Constitutional Affairs	99/06/10
C-82	An Act to amend the Criminal Code (impaired driving and related matters)	99/06/10			
C-84	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect	99/06/10			
C-86	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001	99/06/09			

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-208	An Act to amend the Access to Information Act	98/11/17	99/02/11	Social Affairs, Science & Technology	99/03/11	none	99/03/16	99/03/25	16/99
C-220	An Act to amend the Criminal Code and the Copyright Act. (profit from authorship respecting a crime) (Sen. Lewis)	97/10/02	97/10/22	Legal and Constitutional Affairs	98/06/10 adopted	recommend Bill not proceed			
C-251	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/06/08							
C-410	An Act to change the name of certain electoral districts	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	two	98/06/09	98/06/18	27/98
C-411	An Act to amend the Canada Elections Act	98/05/28	98/06/04	Legal and Constitutional Affairs	98/06/08	none	98/06/09	98/06/11	18/98
C-445	An Act to change the name of the electoral district of Stormont-Dundas	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	07/99
C-464	An Act to change the name of the electoral district of Sackville-Eastern Shore	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/11	99/03/11	08/99
C-465	An Act to change the name of the electoral district of Argenteuil-Papineau	98/12/07	98/12/09	Legal and Constitutional Affairs	99/02/04	none	99/02/09	99/03/11	06/99

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-6	An Act to establish a National Historic Park to commemorate the "Persons Case" (Sen. Kenny)	97/11/05	97/11/25	Energy, the Environment and Natural Resources					
S-7	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Haidasz, P.C.)	97/11/19	97/12/02	Legal and Constitutional Affairs					
S-8	An Act to amend the Tobacco Act (content regulation) (Sen. Haidasz, P.C.)	97/11/26	97/12/17	Social Affairs, Science & Technology	98/04/30	two	Dropped from Order Paper pursuant to Rule 27(3) 98/10/01		
S-10	An Act to amend the Excise Tax Act (Sen. Di Nino)	97/12/03	98/03/19	Social Affairs, Science & Technology	98/06/03	none	referred back to Committee 98/09/24		
S-11	An Act to amend the Canadian Human Rights Act in order to add social condition as a prohibited ground of discrimination (Sen. Cohen)	97/12/10	98/03/17	Legal and Constitutional Affairs	98/06/04	one	98/06/09 Motion for 2nd reading negated in the Commons 99/04/13		
S-12	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	98/02/10	98/05/06	Legal and Constitutional Affairs					
S-13	An Act to incorporate and to establish an industry levy to provide for the Canadian Anti-Smoking Youth Foundation (Sen. Kenny)	98/02/26	98/04/02	Social Affairs, Science & Technology	98/05/14	seven + two at 3rd	98/06/10 Bill withdrawn pursuant to Commons Speaker's Ruling 98/12/02		
S-14	An Act providing for self-government by the first nations of Canada (Sen. Tkachuk)	98/03/25	98/03/31	Aboriginal Peoples					
S-15	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	98/04/02	98/06/09	Legal and Constitutional Affairs	98/06/18 Report & Bill withdrawn 98/12/08	four			
S-17	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	98/05/12	98/06/02	Legal and Constitutional Affairs					
S-19	An Act to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment (Sen. Forrestall)	98/06/18							

S-24	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Beaudoin)	99/03/03	99/06/08	Legal and Constitutional Affairs
S-26	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/03/10		
S-27	An Act to amend the Canada Elections Act (hours of polling at by-elections) (Sen. Lynch-Staunton)	99/03/16		
S-28	An Act to amend the Canada Elections Act (hours of polling in Saskatchewan) (Sen. Andreychuk)	99/04/20		
S-29	An Act to amend the Criminal Code (Protection of Patients and Health Care Providers) (Sen. Lavoie-Roux)	99/04/29		

PRIVATE BILLS

S-18	An Act respecting the Alliance of Manufacturers & Exporters Canada (Sen. Kelleher, P.C.)	98/06/17	99/04/20	Banking, Trade and Commerce	99/05/04	none	99/05/05
<i>(Dropped from Order Paper pursuant to Rule 27(3)98/11/17) (Restored to Order paper 99/04/15)</i>							
S-20	An Act to amend the Act of incorporation of the Roman Catholic Episcopal Corporation of Mackenzie (Sen. Taylor)	98/09/23	98/10/29	Social Affairs, Science & Technology	98/12/03	three	99/12/09
S-25	An Act respecting the Certified General Accountants Association of Canada (Sen. Kirby)	99/03/04	99/03/23	Banking, Trade and Commerce	99/04/20	two	99/04/22
S-30	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/05/13					99/04/29

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CANADA

Debates of the Senate

1st SESSION

• 36th PARLIAMENT

• VOLUME 137

• NUMBER 149

OFFICIAL REPORT
(HANSARD)

Monday, June 14, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 995-5805

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THE SENATE

Monday, June 14, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

DR. HAROLD JENNINGS

CONGRATULATIONS ON WINNING PROFESSIONAL INSTITUTE OF PUBLIC SERVICE AWARD

Hon. Lowell Murray: Honourable senators, as Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, I accepted an invitation from the Professional Institute of the Public Service of Canada to attend a reception at noon today for the presentation of the PIPS gold medal award in the category of pure or applied science.

Steve Hindle, President of PIPS, presented the award to Dr. Harold Jennings, Principal Research Officer at the Institute of Biological Sciences of the National Research Council of Canada. Dr. Jennings was honoured for his contributions to the chemistry and immunochemistry of carbohydrates leading to the design and development of synthetic vaccines for the treatment and prevention of bacterial infections, especially those in children. We were told that Dr. Jennings' work at NRC over the last 30 years has saved thousands of lives and dramatically improved the world's capacity to develop new vaccines against many diseases.

The commercial success of this technology has produced \$1 million in royalties for the NRC. Their further development is proceeding, in partnership with North American Vaccines, a Canadian corporation whose principal shareholders include BioChem Pharma. They also have a clinical development agreement and licence agreement for meningitis B with Pasteur Mérieux Serums and Vaccines.

Dr. Jennings is close to 70 years of age. His research colleagues say he has the enthusiasm and dedication of a 30-year-old scientist just starting out. Far from slowing down, he is in the forefront of critical new research projects by the Institute of Biological Sciences. My attention was drawn to an announcement made by the government last week that the institute is joining the Pasteur Mérieux Connaught Cancer Vaccine Network to carry out research into therapeutic cancer vaccines for prostate cancer. This private company is spending up to \$350 million over 10 years to develop therapeutic vaccines for cancer. The federal government is investing \$60 million. The

long-term goal of the Network is to find ways of harnessing the immune system to treat cancer.

In the short term, the goal is to prove by the year 2000 that therapeutic vaccines can stimulate tumour-specific immune responses in cancer patients. The senior vice-president of Pasteur Mérieux Connaught is quoted as saying of the NRC scientists, "They are world leaders in the area of biological mass spectrometry, something that will be vital to the success of this project."

While briefly in the company of the NRC people, I had the opportunity to hear about other important work going ahead at NRC and in partnership with the private sector. In this category is the development of a new product to be used in the manufacture of pulp, replacing chlorine with a more environmentally clean process and, at the same time, reducing the manufacturing costs at pulp mills.

I also observed, with considerable gratitude as well as pleasure, that the NRC is home to a quite remarkable cross-section of greatly gifted people of several generations, both genders and a variety of ethnic shades and accents who, by all accounts, work effectively together and who certainly seem to enjoy each other's company.

The National Research Council has a proud history, its laurels added to today by the honour bestowed on Dr. Jennings. I congratulate him and the NRC as well as the Professional Institute of Public Service on their choice. I also urge honourable senators to take advantage of any opportunity to get acquainted with the work of the NRC. It should be the source of pride and satisfaction for all Canadians.

[Translation]

MR. YVON BEAULNE

TRIBUTE

Hon. Gérald-A. Beaudoin: Honourable senators, Mr. Yvon Beaulne died last week in Hull.

Mr. Beaulne was Canada's ambassador to Venezuela and the Dominican Republic (1961-1964), Brazil (1967-1969), the United Nations (1969-1972), UNESCO (1976-1979), and the Holy See (1979-1984).

This eminent career diplomat devoted body and soul to the defence of rights and freedoms over the years. He was Canada's representative to the United Nations Commission on Human Rights from 1976 to 1984. He chaired the commission in 1979.

In the early 1980s, Walter Tarnopolsky, later a judge with the Ontario Court of Appeal, founded the University of Ottawa Human Rights Centre. It was my privilege to participate in the activities of this centre. We had the full support of Ambassador Beaulne.

Yvon Beaulne came from a family with ties to the theatre and the world of diplomacy, politics, legal studies and culture. We offer our deepest sympathies to the family. We have just lost a great diplomat and a defender of rights and freedoms the world over.

ROUTINE PROCEEDINGS

UNITED NATIONS

TERMS OF GENERAL ASSEMBLY RESOLUTION FOR END TO CONFLICT IN YUGOSLAVIA—FRENCH VERSION TABLED

On tabling of documents:

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, last Thursday I had the honour, with leave of the Senate, to table a copy of the resolution by the Security Council of the United Nations.

Today, honourable senators, I have the honour to table a copy of the French version of the resolution by the Security Council of the United Nations.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[English]

• (1610)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lowell Murray: Honourable senators, again this week, it appears that it is the intention of the leadership to have the Senate sit beyond six o'clock, with leave. I had arranged to hold a meeting of the Standing Senate Committee on Social Affairs, Science and Technology this evening, beginning at six o'clock. Therefore, assuming that the Senate will be sitting beyond six o'clock, I would need leave to make the following motion:

That with leave of the Senate and notwithstanding rule 58(1)(a), the Standing Senate Committee on Social Affairs, Science and Technology have permission to sit at six o'clock today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): With the understanding, of course, that if a vote is in progress at that time, the committee would not be sitting at six o'clock.

The Hon. the Speaker: That is the basis of our rules, that if there is a vote, all committees are suspended.

Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

JUSTICE

EXTRADITION ACT—ALLEGED CONTRIBUTIONS TO BILL TO AMEND BY CHIEF PROSECUTOR OF INTERNATIONAL COURT—GOVERNMENT POSITION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question arises from a question I have on the Order Paper regarding the possibility that the retiring Chief Prosecutor of the International Court, Madam Justice Louise Arbour, may have been consulted on the drafting, or the preparation of Bill C-40 before it was tabled. This point was raised by Senator Grafstein during discussions on the amendments he moved to Bill C-40, dealing with the Extradition Act. I feel that the matter of whether Madam Justice Arbour was or was not consulted in the preparation of legislation, prior to its tabling in the House of Commons at first reading, has taken on greater urgency because Madam Justice Arbour has now been named to the Supreme Court.

I am sure the Leader of the Government would agree with me that the matter now takes on some urgency. I ask that he have an answer to the question preferably before we adjourn for the summer, and certainly before she is scheduled to be sworn in.

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I am glad that the Leader of the Opposition has raised the question because I did not realize that this was an outstanding delayed answer. I do recall Senator Lynch-Staunton raising the question at the time of the consideration of Bill C-40, dealing with the Extradition Act. I also recall at the time the Minister of Justice stating quite unequivocally that she had not talked to Justice Arbour in relation to that piece of legislation. The minister further stated that any comments made were purely speculative, and were as a result of media interviews with Madam Justice Arbour that may have been conducted.

Senator Lynch-Staunton: The minister is quite right: The question was not raised during Question Period as such. I am raising it now as a result of a written question I put on the Order Paper, for which I would normally be willing to await the answer in due course. However, because Madam Justice Arbour has been named to the Supreme Court, it is important to clear the air as to whether or not she was involved or consulted in the drafting of legislation which was put before Parliament. Most people would agree that it is not the role of members of the judiciary to be involved in consultation, preparation, or whatever with regard to legislation that eventually may come before them as members of a court.

For Madam Justice Arbour's sake, I should like to clear the air on that matter, because during the debate here the impression was left that perhaps she had been involved. Surely between now and Friday, someone in the Justice Department can indicate that she was or was not involved.

Senator Graham: Honourable senators, I shall attempt to bring forward a definitive answer to that question. My recollection is that Madam Justice Arbour was asked by a reporter if she agreed with the thrust of Bill C-40 and whether it would be in compliance with our international obligations. I believe that her answer was in the affirmative. That is as far as I can go at the present time. However, I will try to be as helpful as I can and bring forward something that is more definitive.

NATIONAL DEFENCE

SEARCH AND RESCUE—REMOVAL OF HELICOPTER SERVICE FROM SOUTHWESTERN COAST OF NOVA SCOTIA— GOVERNMENT POSITION

Hon. Gerald J. Comeau: Honourable senators, my question is also to the Leader of the Government in the Senate.

Since it came to power this government has desired to eliminate the Coast Guard search and rescue helicopter service in southwestern Nova Scotia. First, the government replaced the Sikorsky with a small BO-105, which has very limited capabilities in bad weather and at night. Limited as it may be, this helicopter is under review again, in spite of the critical importance of this service to the region.

Will the minister for Nova Scotia commit today to maintaining the search and rescue helicopter service in that part of the province?

• (1620)

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I shall make very strong representations, as presented by Senator Comeau. I feel that it is a very essential service, particularly in our coastal regions. I appreciate the concern that has been expressed by Senator Comeau. Again, I shall have a discussion on this matter directly with the Minister of National Defence and with the Minister of Fisheries and Oceans.

Senator Comeau: Honourable senators, the minister might mention to his colleagues that the budget for this service is very limited. As a matter of fact, we hear that there is not enough money for a full-time pilot and that a part-time pilot on contract must be called in. This is very difficult for search and rescue operations, especially in the winter when there is heavy-duty fishing. Rather than cutting back on the service and having part-time pilots, would the government consider having a full-time pilot on this aircraft?

Senator Graham: I wish to assure the honourable senator that this issue has a special interest for me, as I come from that part of the country. Again, I will have discussions with the appropriate ministers.

KOSOVO PEACEKEEPING FORCE—STATE OF LEOPARD TANKS— GOVERNMENT POSITION

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. The Government of Canada has now announced that it is sending Leopard C1 main battle tanks to Kosovo. They are underarmed and have been criticized by the Auditor General of Canada.

Could the minister tell us how many of these battle tanks are being sent and whether or not any modifications or upgrades have been completed on the Leopards before they are dispatched?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I have already described the Coyotes as well as other equipment that has been sent over, but with respect to the Leopard tanks I will need to seek further information.

AGRICULTURE

FARM CRISIS IN PRAIRIE PROVINCES—POSSIBILITY OF GOVERNMENT SUPPORT—REQUEST FOR UPDATE

Hon. A. Raynell Andreychuk: Honourable senators, my question is for the Leader of the Government in the Senate. Could the minister advise us of the current state of the farm-aid package, now that the Minister of Agriculture and Agri-food has toured Saskatchewan and Manitoba?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I was in Nova Scotia on the weekend and arrived in Ottawa in time for the call of the Senate, at four o'clock. I have not had an opportunity to consult with the Minister of Agriculture. However, I assure Senator Andreychuk that I shall do so at the first opportunity, hopefully later today.

Senator Andreychuk: Honourable senators, it is difficult to ascertain what the Minister of Agriculture will do. He came to the province of Saskatchewan, but it appears that rather than speaking to farmers, he had a delegation come to meet with him, which delegation included most of the Liberal supporters throughout the province, including from the provincial base. Many of the farmers who came to plead their case were left outside while this meeting took place.

The minister indicates that no new money will be allocated for the farm crisis, but that he would look into the existing programs, whatever that means. I would appreciate some clarification as to his position.

For the information of this chamber, it continues to rain in that area. The situation is becoming more and more critical. It is having a ripple effect throughout the entire economy.

The Premier of Saskatchewan has called for an immediate and dramatic re-examination in order to help the farmers today, not later. Meanwhile, we remain in the same position: not knowing what the government will do, while the crisis continues to deepen.

I would appreciate it if this matter could again be taken up with the minister. Perhaps the Prime Minister could come out to the province to view the difficult situation.

Senator Graham: Honourable senators, I am very much aware of the concerns that have been expressed by Senator Andreychuk and others. I certainly sympathize with the situation and with the farmers who are so adversely affected.

Honourable senators, I shall do my best to bring the representations that honourable senators have made to the attention of the Minister of Agriculture and the Prime Minister at the first opportunity.

FIRST NATIONS LAND MANAGEMENT BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-49, providing for the ratification and the bringing into effect of the Framework Agreement on First Nation land management, and acquainting the Senate that they had agreed to the amendments made by the Senate to this bill without amendment.

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING—MOTION IN AMENDMENT— VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

On the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended,

- (a) on pages 10 to 12, by deleting Part 3; and
- (b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

The Hon. the Speaker: If no honourable senator wishes to speak on this matter at third reading, the vote will be deferred to five o'clock. The bells will ring at 4:45 p.m.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill C-79, to amend the Criminal Code (victims of crime) and another Act in consequence.

She said: Honourable senators, I rise today to speak at third reading of Bill C-79, an act to amend the Criminal Code (victims of crime). The amendments in this bill are necessary and reasonable reforms which will address the needs and concerns of victims of crimes within the criminal justice system.

Honourable senators, it is clear from the deliberations of the Standing Senate Committee on Legal and Constitutional Affairs and consultations with members opposite that both parties in this chamber support the amendments proposed in this bill.

Our colleagues in the other place, as well as victim advocates, service providers and members of the public have expressed their support for Bill C-79, and I believe with good reason. The Criminal Code amendments in Bill C-79 build upon existing provisions regarding the victim impact statement, the victim surcharge and publication bans on identity to make it easier for victims and witnesses to provide their testimony.

In building upon these provisions, they build upon very good legislation passed by the previous government. In the past, the effectiveness of the criminal justice system has been compromised by victims' and witnesses' unwillingness to participate in court proceedings.

The amendments also enact new provisions to address the concerns of victims regarding their safety, to enhance and expand the opportunities for their views to be considered, and to encourage the provision of information to victims.

As honourable senators would know, the amendments in Bill C-79 will implement the unanimous recommendations of the House of Commons Standing Committee on Justice and Human Rights, entitled, "A Voice, Not A Veto." These amendments will enhance the voice of victims of crime in our criminal justice system and will not in any way infringe upon the rights of persons accused of crimes.

Let me say at this time that I was delighted to be with the committee during its study of this bill, although it was not, unfortunately, for the entire duration. Nevertheless, it was good to be back with the Standing Senate Committee on Legal and Constitutional Affairs.

Two amendments raised particular concern during the committee's deliberations. The first amendment which raised concern was the victim impact statement and the second was the publication ban. Allow me to address these concerns briefly.

The victim impact statement amendments will give victims the opportunity to present their statements in open court. It will assure victims that in addition to the requirement that the statement be considered, it will be heard by the judge and anyone else present in the courtroom during sentencing, including the accused.

In regard to the second concern, Bill C-79 will permit a judge to restrict publication of the identity of a wider range of victims or witnesses. The publication ban will be imposed where the victim establishes the need for the order, and where the judge considers it necessary for the proper administration of justice. This provision will codify the principles of prevailing common law and procedure, as established by the Supreme Court of Canada. It will fully respect the need to balance the rights of the victim, the rights of the accused and the rights of the public.

Honourable senators, let me assure you that the expansion of the publication ban provision is not intended to penalize the press or restrict the openness of court proceedings. It is in response to concerns expressed by victims as well as victim advocates and service providers. It is designed to protect the identity of victims and witnesses of crime and spare undue hardship, embarrassment and continued victimization.

[Translation]

• (1630)

As parliamentarians, we have an obligation to the people of Canada to enact laws that are in their best interests. I firmly believe that Bill C-79 fulfills this obligation. With it, we encourage the expansion of services for victims and witnesses of crime, as well as the provision of information on the criminal justice system.

Honourable senators, I urge you to give your consent to Bill C-79, and give victims of crime the respect, dignity, and protection they deserve.

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to say a few words on Bill C-79.

Some media expressed concerns about the scope of the publication ban regarding the identity of a victim or witness, provided for in clauses 1 to 3 of Bill C-79.

When a judge makes such an order, he must take into consideration the factors listed in subsection 3(4.7) of the bill. These criteria are the result of a landmark ruling made a few years ago by the Supreme Court of Canada, in the *Dagenais* case.

As senators know, the *Dagenais* ruling deals with orders restricting publication, in relation with the right of an accused to a fair trial.

Let me briefly relate the facts. In November 1992, the CBC announced the broadcasting of a miniseries co-produced with the National Film Board, entitled *The Boys of St. Vincent*. At the same time, there was a trial in Ontario involving members of a religious order who were accused of having sexually abused young boys under their custody. Three other trials were about to begin. The miniseries was a fictitious story about sexual abuse inflicted on children living in a Catholic institution. The Ontario Court of Justice allowed an injunction application and issued a publication ban regarding the miniseries, in all of Canada. That ban was upheld by the Ontario Court of Appeal, but restricted to Quebec and Ontario, until the four trials were over.

The Supreme Court majority quashed the order prohibiting publication. Chief Justice Lamer was of the opinion that the common law rule that gives a judge the discretionary power to issue a no-publication order must comply with the principles stated in the 1982 Charter, otherwise the judge makes an error in law which may justify the quashing of that order.

According to Chief Justice Lamer, a hierarchical approach to Charter rights must be avoided when considering the advisability of a publication ban.

In his view, a publication ban should only be ordered when:

(a) it is necessary in order to prevent a real and substantial risk to the fairness of the trial, because reasonably available alternative measures will not prevent the risk;

(b) the salutary effects of the publication ban outweigh the deleterious effects to the free expression of those affected by the ban.

Using these criteria, Chief Justice Lamer concluded that the initial ban was far too broad and that a number of reasonable alternative measures were available to achieve the objectives.

Chief Justice Lamer also expressed concerns as to the efficacy of publication bans. In this era of modern technology, computer networks and global electronics, it was very difficult to restrict the flow of information.

In his reasons, Chief Justice Lamer stressed the importance of trial fairness, both to the accused and to society. For all these reasons, the majority ruled in favour of setting aside the publication ban.

Justice Gonthier, along with Justice l'Heureux-Dubé, wrote dissenting reasons. In his view, the Charter did not alter the balance required in common law between freedom of expression and the right to a fair trial. In addition, the publication ban at issue did not affect the application of section 2(b) of the Charter, primarily because, unlike news, the immediacy of the miniseries was not the essence. In Justice Gonthier's view, a temporary ban until the end of the trial would not cause serious harm to the CBC. He also felt that technological progress should not defeat publication bans in exceptional cases. For these reasons, Justice Gonthier therefore concurred in the decision handed down by the Ontario Court of Appeal, and limited the interlocutory injunction to Quebec and Ontario.

I should point out that the issue of a publication ban to protect the identity of the victim of a sexual assault had already been the object of a Supreme Court ruling in 1988, in the *Canadian Newspaper* case.

So, freedom of press implies, in principle, access to court hearings and the publication of court proceedings. In the *Canadian Newspaper* case, the Supreme Court ruled that the publication ban regarding a complainant's identity in a case of a sexual nature, when the complainant makes such a request under subsection 442(3) of the Criminal Code, interferes with freedom of press but is justifiable under section 1. It is, according to the Court, a minimal restriction to freedom of press and not a general interdiction. Its purpose is to encourage victims of sexual assault to lay charges, facilitate legal proceedings, sentence abusers, curb crime and improve the administration of justice.

Honourable senators, in my opinion, Bill C-79 complies with the principles stated in the jurisprudence of the Supreme Court of Canada and is respectful of the rights and freedoms guaranteed under the Canadian Charter of Rights and Freedoms.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will now proceed with the motion.

It is moved by Honourable Senator Carstairs, seconded by Honourable Senator Losier-Cool, that the bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion.

Motion agreed to and bill read third time and passed.

NATIONAL HOUSING ACT CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—THIRD READING—DEBATE SUSPENDED

Hon. Aurélien Gill moved the third reading of Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another act.

He said: Honourable senators, I rise today to speak to Bill C-66, amending the National Housing Act and the Canada Mortgage and Housing Corporation Act.

The intent of this bill is very simple, to give the Canada Mortgage and Housing Act sufficient flexibility to carry out the mandate given it by the government.

• (1640)

Under the new mandate, the essential activities of the Canada Mortgage and Housing Corporation are better targeted and modernized to some extent. They include funding housing, providing accommodation assistance, doing research, distributing information and promoting exports.

The new mandate these amendments reflect opens a new chapter in the history of CMHC, but this is only the latest chapter in a strikingly successful history.

As part of our committee work, we heard witnesses describing the impressive legacy of Canada Mortgage and Housing Corporation. The Canadian Homebuilders' Association contended that Canada's enviable situation making it one of the best housed nations in the world is due in large measure to the vital role played by CMHC in helping the housing sector and the housing funding markets provide the innovations consumers need.

Throughout its 50 years of existence, CMHC has adapted its measures to the evolving capacity and needs of the market.

Honourable senators, this bill is designed to support the work of a corporation dedicated to improving the well being of Canadians, wherever they live, and helping communities throughout the country take full advantage of innovations in the housing market.

The benefits of Bill C-66 are threefold: CMHC will be able to respond to shifts in consumer demand and market conditions. The benefit to Canadians will be the availability of low-cost funds and access to mortgage financing no matter where they live in Canada; CMHC will be able to better promote Canadian housing products and services abroad. This will result in job opportunities for Canadians, here and abroad; CMHC will be able to offer administrators of housing assistance programs the flexibility they need to manage their resources effectively, for the greater good of those they serve.

As honourable senators know, CMHC's mortgage insurance is very successful, making it possible every year for hundreds of Canadians to realize their dream of home ownership. In fact, one out of three homes in Canada has been built or bought with assistance from CMHC.

The program makes it possible for Canadians to buy a home with an initial down payment of 5 per cent. It was originally intended for prospective homeowners but, because of its success, it now targets other buyers.

Just to give an idea of how many Canadians depend on this 5 per cent program, since it was first introduced in 1992, it has enabled over 600,000 Canadians to buy their first home. According to surveys, 70 per cent of these buyers would not have been able to afford a home without this reduction in the down payment.

This new act will improve an already excellent program. Indeed, Bill C-66 will eliminate useless constraints regarding mortgage loan insurance by Canada Mortgage and Housing Corporation. CMHC will thus enjoy greater flexibility and effectiveness to meet the housing needs of Canadians.

As soon as the new act comes into effect, CMHC can consider introducing on the market a number of original and innovative home financing products, including reverse equity mortgages, which allow older homeowners to use the equity in their homes to obtain funds while allowing them to continue to live in their homes.

I should remind honourable senators that, unlike private insurers, CMHC also plays a public policy role. Honourable senators, CMHC has a duty to serve Canadians precisely because of its public policy role. Its business structure allows it to fulfil that role. The changes made to the National Housing Act will allow CMHC to pursue this critical public policy role, for the benefit of future generations of Canadians.

This role also implies that CMHC must promote private funding for housing on reserves.

The Hon. the Speaker: I am sorry to interrupt you, Honourable Senator Gill but, according to the order of the Senate, I must now ask that the bells ring for the five o'clock vote. You can finish your speech when we come back, after the vote.

Sitting suspended.

[English]

• (1700)

BUDGET IMPLEMENTATION BILL, 1999

THIRD READING

On the Order:

On the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-71, to implement certain provisions of the budget tabled in Parliament on February 16, 1999.

And on the motion in amendment of the Honourable Senator Bolduc, seconded by the Honourable Senator Beaudoin, that the Bill be not now read a third time but that it be amended:

(a) on pages 10 to 12, by deleting Part 3; and

(b) by renumbering Parts 4 to 9 and clauses 20 to 50 and any cross-references thereto accordingly.

The Hon. the Speaker: Honourable senators, the question before us is on the motion in amendment.

Motion in amendment negative on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Johnson
Atkins	Keon
Balfour	Kinsella
Beaudoin	LeBreton
Berntson	Lynch-Staunton
Bolduc	Murray
Buchanan	Oliver
Cochrane	Pitfield
Cohen	Robertson
Comeau	Roche
DeWare	Simard
Di Nino	Spivak
Doody	Stratton
Forrestall	Tkachuk—29
Grimard	

NAYS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bryden	Maheu
Butts	Mahovlich
Carstairs	Maloney
Chalifoux	Mercier
Cook	Milne
Cools	Moore
Corbin	Pearson
Fairbairn	Poulin
Ferretti Barth	Robichaud
Fraser	(L'Acadie-Acadia)
Gauthier	Robichaud
Gill	(Saint-Louis-de-Kent)
Grafstein	Rompkey
Graham	Ruck
Joyal	Stewart
Kirby	
Kroft	Wilson —35

ABSENTIONS

THE HONOURABLE SENATORS

Nil

[Translation]

Hon. Marcel Prud'homme: Honourable senators. I did not vote for or against, nor did I abstain. I want to point out to those who are watching us that I was present in the Senate.

The Hon. the Speaker: Were you in your seat during the vote?

Senator Prud'homme: Absolutely.

The Hon. the Speaker: There is a problem. If you are in your seat, you must either vote or abstain.

Hon. Prud'homme: I still have the right to point out that I was present in the Senate during the vote, without necessarily say that I am for, against, or that I abstained. Those who draft the *Debates of the Senate* will make mention of this. That is good enough for me.

The Hon. the Speaker: These comments will be on the record, but your name will not appear on the voting list.

[English]

THIRD READING

The Hon. the Speaker: Honourable senators, we are now back to the motion for third reading.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Hon. John Lynch-Staunton (Leader of the Opposition): On division.

Motion agreed to and bill read third time and passed, on division.

**MERCHANT NAVY
WAR SERVICE RECOGNITION BILL**

MOTION FOR SECOND READING NEGATIVED

On the Order:

On the motion of the Honourable Senator Forrestall, seconded by the Honourable Senator Atkins, for the second reading of Bill S-19, to give further recognition to the war-time service of Canadian merchant navy veterans and to provide for their fair and equitable treatment.

The Hon. the Speaker: Honourable senators, the question now before the Senate is the motion by the Honourable Senator Forrestall, seconded by the Honourable Senator Atkins, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Would those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Would those honourable senators in who oppose the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen.

The Hon. The Speaker: I see two honourable senators. We will then proceed with the standing vote as per the order of the Senate.

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Grimard
Atkins	Johnson
Balfour	Keon
Beaudoin	Kinsella
Berntson	LeBreton
Bolduc	Lynch-Staunton
Buchanan	Murray
Cochrane	Oliver
Cohen	Prud'homme
Comeau	Robertson
DeWare	Roche
Di Nino	Simard
Doody	Stratton
Forrestall	Tkachuk—28

NAYS

THE HONOURABLE SENATORS

Adams	Lewis
Austin	Losier-Cool
Bryden	Maheu
Butts	Mahovlich
Carstairs	Maloney
Chalifoux	Mercier
Cook	Milne
Cools	Moore
Corbin	Pearson
Fairbairn	Pitfield
Ferretti Barth	Poulin
Fraser	Robichaud <i>(L'Acadie-Acadia)</i>
Gauthier	Robichaud <i>(Saint-Louis-de-Kent)</i>
Gill	Rompkey
Grafstein	Ruck
Graham	Stewart
Hervieux-Payette	Wilson—37

NAYS

THE HONOURABLE SENATORS

Nil

[Translation]

**NATIONAL HOUSING ACT
CANADA MORTGAGE AND HOUSING
CORPORATION ACT**

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion by the Honourable Senator Gill, seconded by the Honourable Senator Ruck, for the third reading of Bill C-66, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to make a consequential amendment to another Act.

Hon. Aurélien Gill: Honourable senators, this public interest mission also requires Canada Mortgage and Housing Corporation to promote private financing for housing on reserves. During committee deliberations, a representative from the Bank of Montreal stressed the importance of creating private funding possibilities for the First Nations. She also supported Bill C-66 because, like her colleagues, she considers that, if Canada Mortgage and Housing Corporation is authorized to develop new

instruments to support the mortgage market, the corporation will have many options in contemplating ways of helping her financial institution and others to better serve the needs of the First Nations.

[English]

Another facet of Bill C-66 promotes the goal of streamlining the administration of social housing so that public funds are used as effectively as possible. As we discussed in committee, the government's financial commitment to groups in receipt of social housing assistance, including aboriginal groups, will continue and will in no way be altered by this bill. In fact, honourable senators, the Cooperative Housing Federation of Canada does not oppose the bill.

Finally, but not least, I would like to address the growing role CMHC is playing in export promotion. Exports are the key to Canada's future prosperity.

[Translation]

Canada has a worldwide reputation for housing quality and the development of habitable and ecological communities. We are able to meet international demand for technology, products, services and specialized knowledge in the field of housing.

Senator Ferretti Barth presented a convincing brief to the committee on the enormous potential of the exports inherent in our housing technology and stressed the resultant job creation possibilities.

In conclusion, honourable senators, there is no doubt that the amendments in Bill C-66 will modernize the various aspects of the work done by Canada Mortgage and Housing Corporation. This law will benefit all Canadians. The competitive mortgage financing system will serve the interests of Canadian buyers, the increased promotion of Canadian products and services abroad will serve the interests of the housing sector, and the creation of more jobs and improved services by CMHC will benefit all Canadians.

Canada Mortgage and Housing Corporation plays a vital role in Canada's housing sector. Quick passage of this bill will ensure that it may continue to be a great asset to all Canadians for many years to come.

[English]

Hon. P. Derek Lewis (Acting Speaker): If no other senator wishes to speak on this bill at third reading, I will proceed with the motion.

It was moved by Honourable Senator Gill, seconded by Honourable Senator Ruck, that the bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

BANK ACT WINDING-UP AND RESTRUCTURING ACT

BILL TO AMEND—THIRD READING

Hon. Céline Hervieux-Payette moved the third reading of Bill C-67, to amend the Bank Act, the Winding-Up and Restructuring Act and other Acts relating to financial institutions and to make consequential amendments to other Acts.

Motion agreed to and bill read third time and passed.

[English]

CANADA TRAVELLING EXHIBITIONS INDEMNIFICATION BILL

THIRD READING

Hon. Sharon Carstairs (Deputy Leader of the Government) moved the third reading of Bill C-64, to establish an indemnification program for travelling exhibitions.

Motion agreed to and bill read third time and passed.

THE ESTIMATES, 1999-2000

INTERIM REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report (Interim) of the Standing Senate Committee on National Finance (Estimates 1999-2000), presented in the Senate on June 10, 1999.

Hon. Terry Stratton: Honourable senators, I will first speak briefly not to the Finance Committee's report but rather to the examination of the disaster subcommittee's work to date. We heard from the Honourable Art Eggleton, Minister of National Defence, regarding national emergency preparedness for Canada. He was quite forthcoming. He talked about the Emergencies Act which came into effect in 1988 to replace the War Measures Act and which empowers the federal government to provide for the security and welfare of Canadians in a national crisis.

In a natural disaster, a state of emergency, an international crisis or war, this act is an instrument of last resort. In fact it has never been used since it was brought into effect. There are certain express conditions which must be followed.

• (1720)

Minister Eggleton also alluded to the rising costs associated with these disasters. In the last number of years, I believe that cost is in excess of \$600 million. He encouraged us to explore measures that would mitigate these costs. Currently, no formula exists for this kind of action, which necessitates collaboration between the federal and provincial governments. In other words, while we want to do this, there is no method or formula to do it.

He is looking forward to this report because he realizes, as does everyone, I believe, that something must be done.

On Monday, May 31, we heard from Dr. Gordon A. McBean, who is Assistant Deputy Minister for the Atmospheric Environment Service of Environment Canada. Dr. McBean, who is an expert on the environment, reiterated what the minister had stated, that, in effect, what is occurring is an ever-increasing frequency of these disasters. Dr. McBean's forecasts were quite disturbing. He stated that global warming is well on its way and that we can expect more storms. They can warn against snowstorms, floods, and give maybe 15 or 20 minutes of warning in advance of tornadoes striking, but the ever-increasing occurrence of these events is problematic. Dr. McBean predicts an increase in the severity and frequency of severe weather events.

Dr. McBean also told the committee that global warming will affect different areas of the country in different ways. Some of these changes are expected to have catastrophic effects on Canadians, which we already know. For example, he talked about the Prairies. We were interested in that particular area. I believe Senator Fraser may have asked the question. Dr. McBean said that we can expect more droughts to occur — although you would not believe it today given the flooding in that area of the country.

Honourable senators, the committee will continue its study in August, when we hope to hear from the Red Cross and others. We want to move briskly because it is the committee's wish to table its report by the end of this year. We will be presenting interim reports because this issue is of ever-increasing concern to Canadians.

Beginning on Sunday next and running through to Wednesday, the ninth world congress on disasters is meeting in Hamilton. This congress takes into account not only natural disasters, but disasters such as terrorism. Of course, our committee is interested only in the natural aspects of disaster.

That, honourable senators, is the report.

Hon. Anne C. Cools: Honourable senators, I wish to underscore the fact that this report is an interim report of the Standing Senate Committee on National Finance. The National Finance Committee will be continuing its examination of the Main Estimates for the fiscal year 1999-2000, and that examination shall be ongoing for quite some time.

I also wish to take the opportunity to thank all the witnesses, including the parliamentary secretaries, the officials from Treasury Board, and all the splendid people who appeared before the committee on sometimes relatively short notice.

The Hon. the Acting Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

APPROPRIATION BILL NO. 2, 1999-2000**SECOND READING**

Hon. Anne C. Cools moved the second reading of Bill C-86, for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001.

She said: Honourable senators, I rise to move the second reading of Bill C-86, for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001. Bill C-86, also known as Appropriation Bill No.2, 1999-2000, seeks parliamentary authority to grant to Her Majesty certain sums of money — \$31.9 billion — as provided for in the Main Estimates 1999-2000.

Honourable senators should note that the long title of Bill C-86 states "for the financial years ending March 31, 2000 and March 31, 2001," but that its short title states only "1999-2000." This is quite unusual, and I should like to provide some explanation about the difference in these titles. It is because Schedule 2 of Bill C-86 appropriates amounts to Parks Canada Agency for the fiscal years April 1, 1999 to March 31, 2001.

This difference in the title was questioned by some in the House of Commons by a point of order. On June 8, 1999, Speaker Gilbert Parent ruled on this point of order regarding the title of Bill C-86, declaring that Bill C-86 was in order. He stated:

The multi-year appropriation authority covered in schedule 2 of the bill is based on legislation approved by parliament in 1998 by which Parks Canada Agency is granted the authority to carry over to the end of 2000-01 fiscal year the unexpended balance of money in fiscal year 1999-2000. But in my view, that money is originally appropriated for the 1999-2000 fiscal year. Despite what the long title says, we are still talking here about a yearly appropriation bill for the fiscal year 1999-2000. What is included in schedule 2 and referred to in clause 2 is there strictly for information purposes.

My ruling is therefore that the supply bill is properly before the House.

However, I must express strong reservations about the reference in the long title of the bill to two financial years. The reference is not at all needed and is in fact, in my view, misleading. It is obviously too late in the supply process to envisage an amendment to rectify that anomaly, unless of course the House were to proceed immediately to do so by unanimous consent.

In any case, I do hope that in future supply bills the government will ensure that the title reflects that the

appropriation requested from parliament, in keeping with our longstanding practice, is for the single fiscal year covered by the estimates.

I thought that honourable senators should have some clarification on this point. This issue of multi-year appropriation was also raised by senators during our National Finance Committee's consideration, particularly, by Senator Roch Bolduc. The sixteenth report of the Standing Senate Committee on National Finance, which was adopted a few minutes ago, states:

Specifically, the Canada Custom and Revenue Agency and the Canadian Parks Agency are two agencies that will be using this system of appropriation. This approach would seem to place further appropriation into this category of spending that might not be regularly reviewed. While Mr. Ianno agreed that this two-year appropriation provision lies somewhere between an annually voted appropriation and a statutory appropriation, it will still be open to regular parliamentary scrutiny and will be reported annually in the Estimates.

• (1730)

The Main Estimates 1999-2000 were tabled in the other place on March 1, and here in the Senate on March 2, 1999. They are for a total of \$151.3 billion, which includes \$105.6 billion arising from existing legislation, and \$45.7 billion for which Parliament must grant its authority.

The Senate passed interim supply of \$13.8 billion on March 25, 1999, for the first three months of this fiscal year ending March 31, 2000. Bill C-86, Appropriation Act No. 2, today seeks the Senate's and Parliament's authority for \$31.9 billion, the remaining nine months' portion for this current fiscal year.

On March 24 and May 6 last, during our National Finance Committee's examination of the Main Estimates 1999-2000, Richard Neville, an official with the Treasury Board Secretariat, appeared before our committee. As always, Mr. Neville was very candid and open in his responses. I thank him. In addition, both Andrew Lieff and Bob Mellon, officials with the Treasury Board Secretariat, appeared with Mr. Neville on May 6. I thank them for their testimony.

Tony Ianno, Parliamentary Secretary to Marcel Massé, the President of the Treasury Board, appeared before our committee on June 2, 1999. Mr. Ianno assured senators that although the Main Estimates 1999-2000 reflect an increase over the previous fiscal year's amount, the government's expenditures are under control, and that this increase is consonant with the country's fiscal soundness. I would like to thank Parliamentary Secretary Ianno for his testimony and for his responses to the committee's questions and concerns.

On March 23, 1999, during second reading debate on Bill C-74, Appropriation Act. No. 1, I had noted a number of major increases in this year's Main Estimates over last year's. I had included the following, saying:

— \$874 million to the Department of Finance for Canada Health and Social Transfer payments; \$840 million to the Department of Human Resources Development for increased employment insurance benefit payments; \$600 million to the Department of Agriculture and Agri-Food Canada for income disaster assistance for farmers in response to recent declines in commodity prices; \$287 million to various departments and agencies for the Year 2000 compliance requirements.

I would also like to highlight other major increases in the Main Estimates 1999-2000 as they are reflected in these appropriation acts. They include \$700 million to various agencies for salaries and benefits for the judiciary, the Armed Forces and the RCMP; \$383 million to the Department of National Defence's capital spending, including the \$150 million reinstatement of a one-time 1998-99 reduction; \$322 million to the Departments of Fisheries and Oceans and Human Resources Development for the Canadian Fisheries Adjustment and Restructuring Program; \$175 million to Human Resources Development Canada for the Canada Student Loans Program; \$171 million to the Department of Indian Affairs and Northern Development for Indian and Inuit programming, including \$52 million for responding to the Royal Commission on Aboriginal Peoples, and also \$42 million for the relocation of the Davis Inlet's Innu people; \$165 million for the Department of Finance for transfer payments to the territorial governments, including the newest territory, Nunavut; \$135 million to Health Canada for public education about tobacco control, toxic substance research, the Canadian Breast Cancer initiative, the Aboriginal Head Start Program, and also for First Nations and Inuit Health Services; and \$65 million to the Canadian Space Agency for the Radarsat-2 project.

Honourable senators, those are some of the major changes to the Main Estimates 1999-2000. I urge all senators to grant supply to Her Majesty and to pass Bill C-86, Appropriation Act No. 2, 1999-2000, so that the Government of Canada may proceed with its business of governance.

[Translation]

Hon. Roch Bolduc: Honourable senators, we have just received from Senator Stratton a detailed report on emergency measures prepared by the Subcommittee on Canada's Emergency and Disaster Preparedness. Senator Cools has summarized the report of the Senate Standing Committee on National Finance on this year's estimates. This year, two special agencies of the government have presented multi-year estimates.

I do not know if this is a proper precedent. As it was explained to us, it is acceptable, but it may not be if the number of special agencies increases and they all adopt multi-program budgets. I can see it for capital expenditures, but not for operating expenses.

[English]

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cools, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 1999

SECOND READING—DEBATE ADJOURNED

Hon. Lorna Milne moved the second reading of Bill C-84, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect.

She said: Honourable senators, I am pleased to rise today to speak to Bill C-84, the Miscellaneous Statute Law Amendment Act, 1999.

The miscellaneous statute law amendment program was established in 1975 as a law reform initiative. Since then, eight acts have been passed, in 1977, 1978, 1981, 1984, 1987, 1992, 1993 and 1994. The purpose of the program is to make minor amendments of a non-controversial nature to a number of federal statutes without having to wait for them to be opened up for amendments of a more substantial nature.

The procedure for these MSLA amendments is designed to take up as little parliamentary time as possible. The MSLA proposals are tabled in Parliament and referred to the respective committee of each house for pre-study before a bill is introduced. Consideration of the proposals is non-partisan. If either committee objects or if either party in each committee objects to a proposal, the proposal is dropped from the bill. A bill is then introduced in Parliament containing only those proposals approved by the committees of both chambers.

Honourable senators, Bill C-84 is divided into three parts. Part 1 makes amendments of a housekeeping nature to over 80 statutes administered by over 20 departments and agencies.

Part 2 updates references in the Statutes of Canada to the revised Income Tax Act, which came into force after the rest of the revised statutes, 1985. These changes would have been made in the next statute revision process had the MSLA not been available.

Part 3 repeals spent acts and contains conditional amendments.

In order to be included in this MSLA process, first, an amendment must not be controversial; second, involve the spending of public funds; third, prejudicially affect persons' rights; or, fourth, create a new offence or subject a new class of persons to an existing offence.

The Standing Senate Committee on Legal and Constitutional Affairs reviewed the proposals contained in this bill against these criteria and reported them on May 13, 1999 in its twenty-fourth report, without amendment.

The Department of Justice tabled a number of changes to the proposals originally tabled before Parliament in 1998. These changes were also adopted by the Standing Senate Committee on Legal and Constitutional Affairs.

Some proposals were withdrawn because they had been included in other bills tabled before Parliament between November of 1998 and May of this year. Others were withdrawn at the request of the initiating departments. One change was made to take into account the change of name of a court in Ontario.

• (1740)

This bill has been carefully scrutinized by the committee researchers and has been found to be completely consistent, in both French and English, with the proposals that were studied by our committee. The only change is some renumbering due to the previously mentioned proposals that were withdrawn during the committee's consideration of the MSLA.

The miscellaneous statute law amendment process is a very important mechanism for quality control in the Statutes of Canada. In view of the unique procedure that these housekeeping amendments follow, I would ask for your agreement, honourable senators, to dispense with a reference of this bill to committee so that it may be reported back and read a third time, at the next sitting of this house, in an expeditious manner.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator answer some questions for clarification?

Senator Milne: Certainly.

Senator Kinsella: First, which minister is responsible for the bill?

Senator Milne: Since the amendments come from so many different departments, they come under a variety of ministers. We heard from the officials of the Department of Justice and from one other department, and I must admit I have forgotten which one.

Senator Kinsella: In terms of the legislative process, if we find a provision of this bill to be troublesome, we merely need to rise in this place and say that clause such and such is troublesome

for the following reasons, propose an amendment, and there is unanimous agreement to drop that clause. Is that how the process works?

Senator Milne: The process worked that way when the MSLA amendments came before committee and were studied. At that point, every amendment that was at all controversial was dropped. The committee would then report back on the bill.

The Senate accepted our report on these proposals back in May. The bill that is now before us is the bill resulting from that committee report. It takes into consideration the fact that the House of Commons committee also studied exactly the same proposals and agreed with our report. Our committee actually completed its study before the proposals were studied by the House of Commons.

Senator Kinsella: Perhaps the honourable senator would give us an indication of how many clauses of the envisaged proposal were dropped at committee stage, or following the committee's study?

Senator Milne: The other members of the committee may correct me if I am wrong on this, since quite a few bills have been dealt with since then. However, I believe that approximately 20 clauses were dropped.

Hon. John Lynch-Staunton (Leader of the Opposition): I [Honourable senators, I have a question for the chairman of the committee. I have no problems with the report from which this bill flows, except with respect to the reference in the bill to a request by the National Energy Board, which the report itself admits is pushing the use of the miscellaneous statutes bill a bit far, to the point where — and I admire the frankness of all parties involved — the report ends up by saying that "...this decision shall not serve as a precedent." However, I believe that it is pushing beyond the edge to use miscellaneous statutes to confirm what should have been confirmed in another way, if confirmed at all. Perhaps you could give us some reassurance on how this came about?]

Senator Milne: This came about purely as a safety concern. The one proposal that was before us was a temporary, three-day extension of the width of a right-of-way. Whenever there is to be construction around an area, a gas company or a pipeline company can have a temporary, three-day extension of the width of the right-of-way in order that they have time to go in there and stake out the exact position of the pipeline, so that no construction digging will happen over the pipeline. It is purely a matter of health and safety, really. This was why the committee decided to go ahead and accept the proposal.

Senator Kinsella: Honourable senators, there was one clause of the bill, clause 134, that caught my attention, on page 40 of the bill. That clause addresses the rights of a Canadian citizen, or a permanent resident, who has sponsored an application for landed immigrant status. If that status is refused, they may appeal to the appeal division on either or both of certain grounds. Those grounds would be in the statute.

Honourable senators, it seems to me that that particular amendment speaks directly to an issue of rights which could very well prejudicially affect the Canadian citizen. — if, for example, I were sponsoring someone as a landed immigrant and I was curious as to whether or not there is a limitation being placed on the Canadian citizen, or the permanent resident, in terms of the grounds of appeal. Surely, the general grounds of appeal, in terms of natural justice as a ground, is available and cannot be obviated. This clause, if added, would seem to be limiting the right of appeal.

Senator Milne: I am trying to find the precise section that the honourable senator is speaking about.

Senator Kinsella: It is on page 40 of the bill, section 134.

Senator Milne: On page 40, I have section 148 and 149.

Senator Kinsella: I am sorry, page 36 of the bill.

Senator Milne: I cannot, quite frankly, remember the discussion on that particular section of the bill. However, we were assured by the staff from the ministries that came before us that there was nothing controversial about it whatsoever. At this point, I must rely on what they told me because my memory is faulty.

Senator Lynch-Staunton: Honourable senators, to get back to my point, as I understand it, then, the National Energy Board went beyond its regulation authority on this question of a safety zone. Is that correct?

Senator Milne: No, they did not go beyond their authority. However, they had been operating beyond their authority over the last few years. They had been, in effect, requiring this extension of their rights with respect to rights-of-way without any parliamentary authority. In this bill, there is an attempt to introduce the parliamentary authority to allow them to do that because it is a safety matter. It was only because it was a safety matter that we agreed to it.

Senator Lynch-Staunton: I accept that argument, except it troubles me, again, that agencies and departments too often go way beyond the intent of Parliament. In this particular case — although it may be technical and it may be right what they did — they did not have the authority to do so. We are, as I understand, correcting the matter after the fact, which is not really the role of Parliament.

Senator Milne: That is quite true. This was one of our problems when we dealt with the bill.

Senator Lynch-Staunton: Yes.

Senator Milne: However, because it was a safety matter, we let this one through.

Senator Lynch-Staunton: I just wish to get out of my system and share with honourable senators that that is not the role of Parliament, namely, to accept that after a few years, because

some agency went too far, they can plead whatever and then we just say, "All right, we will accept it."

I have not had a chance to look at the bill. However, I read the report. I congratulate you on an excellent report. I know you did a great deal of work.

• (1750)

I sense that there are other corrections in this proposed legislation that are perhaps the result of excessive use of authority. However, I will leave it at that.

Senator Milne: I believe that that was the only one.

Senator Lynch-Staunton: That reassures me.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, we have before us another bill to amend. It is the ninth such bill since the law amendment program was established in 1975. The title of Bill C-84 is self-explanatory: An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect.

In order to determine which proposals to include in a bill to amend, the Department of Justice of Canada has developed a series of criteria. The suggested amendment must not

- (a) be controversial;
- (b) involve the spending of public funds;
- (c) prejudicially affect the rights of persons; or
- (d) create a new offence or subject a new class of persons to an existing offence.

The Standing Senate Committee on Legal and Constitutional Affairs examined an earlier version of Bill C-84 and, aside from a few clauses which were in fact withdrawn and are not part of this bill, we feel Bill C-84 meets the preceding criteria.

When the time is right, however, thought will have to be given to the matter of repealing legislative provisions ruled without effect by the Supreme Court of Canada. The Criminal Code, for instance, still contains provisions ruled unconstitutional, invalid or without effect over ten years ago, and yet they are still in the Criminal Code! Something must be done about this terrible anomaly! The committee's report of May 13, 1999, examines this issue and suggests that the Minister of Justice contemplate appropriate action. This will have to be looked at.

That having been said, honourable senators, I move that we pass Bill C-84.

On motion of Senator Lynch-Staunton, debate adjourned.

[English]

BUSINESS OF THE SENATE

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, before I proceed, I believe there is a general willingness in the chamber not to see the clock at six o'clock.

The Hon. the Speaker: Honourable senators, is there agreement that I will not see the clock at six o'clock?

Some Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Your Honour, since you asked if we see the clock, I suppose I could say that I see the clock very well. I think the clock will say six, soon. We will see what happens at six o'clock.

The Hon. the Speaker: If there is no agreement at this point, I will interrupt at six o'clock.

CRIMINAL CODE

BILL TO AMENDED—SECOND READING—
REFERRED TO COMMITTEE

Hon. Sharon Carstairs (Deputy Leader of the Government) moved second reading of Bill C-82, to amend the Criminal Code (impaired driving and related matters).

She said: Honourable senators, I shall not speak at this time. I yield to Senator Marjory LeBreton, who, more than any other person in this chamber, knows the importance of this piece of legislation.

Hon. Marjory LeBreton: Honourable senators, before I begin, I would sincerely like to thank the government house leader, Senator Carstairs, for her generosity in turning the floor over to me. I very much appreciate the opportunity to address this most serious and important matter, although you will not be surprised to know that this is one opportunity I would have gladly passed up.

Preparing this speech was a most difficult personal task. Unlike many issues we address in Parliament where we are able to research the subject, listen to the debate and try to make informed and enlightened decisions in the best interests of our fellow citizens, with this subject, I totally and absolutely know of what I speak.

Perhaps this experience will result in my being able to make the point that driving drunk is a most serious crime.

Drunk driving is responsible for the largest number of criminally caused deaths and injuries in our country. Yet so many people seem to be reluctant to face the problem of drunk driving. Many avoid the call for serious and strict measures to remove these dangerous individuals from our public roadways.

Honourable senators, when a person takes a gun or a knife and shoots or stabs someone, the public knows immediately that a serious criminal offence has been committed. Quite understandably, action is demanded and the verdict is swift in the public's mind. They immediately call for stricter laws and stronger sentences. They argue for gun control. They call for more protection for police and the public.

Thank goodness the Canadian population has never grown immune to acts of violence, whether premeditated or what is referred to as a crime of passion or non-premeditated. Why is it then that some in our society still place drunk driving in the social problem category instead of where it belongs, as a serious criminal offence? Why is it that in an enlightened society such as ours, the perpetrators of such death, destruction and personal injury still get off relatively lightly.

Look around you, honourable senators, your local newspapers are full of stories of people killed and maimed by drunk drivers and many of whom, unfortunately, kill themselves as well. Imagine if, week in and week out, the stories read that guns or knives were involved in death or injury to our families, friends and neighbours. The public, quite rightly, would be storming this place demanding action.

This may sound slightly melodramatic, but I say this only to make the point that far too often the scourge of drunk driving is met with passive acceptance or benign neglect.

Hon. Marcel Prud'homme: Honourable senators, do not worry about the clock.

Senator LeBreton: Thank you, Senator Prud'homme.

Drinking in moderation is socially acceptable, but drinking and driving with a blood alcohol level above .08 is a criminal offence. We must not blur the very narrow ground between the two. Even .08, for some, is an unacceptable benchmark and some studies have proven that this level impairs one's abilities considerably. This is a debate for another day. However, one cannot overlook the calls to reduce the level to .05 or, indeed, to a zero-tolerance level for anyone operating a motor vehicle. For the moment, most would merely like to see our police officers and our courts simply implement the law as it stands using the .08 reading. Sadly, strict adherence to the .08 level is rarely enforced.

Honourable senators, my daughter Linda LeBreton and my grandson Brian LeBreton Holmes were killed on January 21, 1996. At that time I was confronted with the horrific reality that their unexpected deaths were the direct result of a decision by a young man to get behind the wheel of his car dead drunk, at almost three times the legal limit. I have come to refer to drunk drivers as "terrorists on wheels."

At the time, many people from all walks of life, doctors, nurses, lawyers, police, firefighters, ambulance drivers, parents, people who would encounter me in the stores and on our streets would say, "Do something, you are in a position to get the law changed."

• (1800)

As paralyzed as I was by the events and their aftermath — the denial, the anger, the frustration and, finally, the acceptance — I found myself not wanting my family or myself to be consumed by this tragedy to the point where we also became helpless victims of the crime. I did not want us to be yet more victims of the person who took my family's life.

I eventually took up the cause and spoke out. I followed every detail of the months of court proceedings and I spoke often about my daughter and grandson and our family. I found that to do so was very therapeutic. I started attending meetings of the local chapter of MADD. I then accepted the invitation to join the national board of directors of MADD Canada.

MADD is an organization, honourable senators, like no other. No one aspires to be a member. We fervently hope that the organization has no cause for expansion and we would all like to see the day that it folds for lack of a *raison d'être*. That is the goal we all work toward. It will be a happy day indeed if and when it is finally reached. Although progress is being made, that day appears to be a long way off. However, as the saying goes, hope springs eternal.

Honourable senators, Bill C-82 was introduced in response to recommendations made by the House of Commons Standing Committee on Justice and Human Rights in its report "Toward Eliminating Impaired Driving." The title of the report is appropriate in its use of the word "toward" because the legislation now before us takes an important step toward the goal of eliminating impaired driving.

I am personally pleased to be speaking in support of these changes to the Criminal Code, which will strengthen the laws — laws that cannot but act as a deterrent to those foolish enough to think that they can drive drunk and get away with it.

Bill C-82 recognizes that impaired driving continues to pose a very serious threat to the life and health of Canadians, that the provisions in the Criminal Code respecting impaired driving must reflect the gravity of the offence as well as the degree of responsibility of the offender, and that the sanctions to be imposed for offences involving drunk driving must reflect those as well.

Bill C-82 amends the Criminal Code to strengthen the laws and penalties in the following ways. It increases the mandatory minimum fine to \$600 from \$300 for a first impaired driving conviction. It increases the mandatory minimum prohibition from driving anywhere in Canada from three months to one year on a first offence, from six months to two years on a second offence, and from one year to three years on a subsequent offence.

Those, honourable senators, are the minimum sentences.

The maximum driving prohibition would be increased from three years to five years for a second offence, and from three years to life for a subsequent offence.

Honourable senators, given the high rate of convictions for impaired driving offences now in Canada, these changes would result in a substantial increase in the amount of time impaired drivers would be prohibited from driving anywhere in Canada.

The bill also increases the maximum penalty for driving while disqualified from two years to five years. It allows sentencing judges to require the use of an ignition interlock as a condition of probation, where such a program is available. Alberta has had a great deal of success with this interlock program.

The bill also authorizes a peace officer to demand a breath sample and, in certain circumstances, a blood sample, where the officer has reasonable grounds to believe that the person committed a drinking and driving offence within the previous three hours. This is an increase from the current two hours.

Honourable senators, that increase is very important. I have talked to many police officers about this. Two hours go by very quickly when confronted with the scene of a horrific crash. In some cases, the perpetrator is removed from the scene to the hospital as well. This provision would give the police more time to gather evidence. Hopefully, with the aid of this provision, we will no longer see so many cases thrown out of court on a technicality. How many times have we read in the newspaper that a case was thrown out because the police did not get a sample within two hours?

Bill C-82 also specifies that a blood alcohol level exceeding twice the criminal level of 160 milligrams of alcohol in 100 millilitres of blood must be considered an aggravating factor by the judge at the time of sentencing.

The recommendation of the House of Commons committee that the sentence for impaired driving causing death be raised from the current maximum of 14 years to life imprisonment was struck from the legislation in order to expedite the passage of this bill. That provision has been reintroduced in the House of Commons as Bill C-87.

While all the other clauses in Bill C-82 are important in the overall strengthening of the laws and the sentences, the deleted clause was the most defining one because it signalled to Canadians that, if they drink, drive and kill, they will face a penalty consistent with the crime. The crime, honourable senators, is vehicular homicide.

Honourable senators, when our loved ones, family members, friends or neighbours are killed by a drunk driver, it is no accident. To call these "accidents" is troubling indeed to many people who have lost loved ones. You may have seen the MADD slogan, "Drunk driving is no accident!" No, honourable senators, driving drunk is a deliberate, senseless act, and the results are totally preventable.

You can imagine my distress at seeing this important maximum sentencing clause used as a political football in the other place. I was surprised by the resistance of the Bloc Québécois. I fail to understand the reasoning behind their objections, because Quebec has set a very good example in dealing with issues of drunk driving. I could not help but think that those members fell within that category I mentioned earlier of those who resist the claim that drunk driving is a criminal act and adhere to the belief that it is merely a social problem. I believe they are out of step with the thinking of their fellow Quebecers and their fellow Canadians.

I was particularly offended by the actions and words of the House Leader of the Official Opposition. He charged that my colleague, and our party's justice critic, Mr. Peter MacKay, was "grandstanding" and "playing politics" because he took a principled stand and would not capitulate on the life imprisonment clause — something Mr. White, on behalf of his party, seemed prepared to do.

It got worse. Mr. Randy White, House Leader of the Reform Party, was quoted in *The Ottawa Citizen* on June 5 of this year as saying:

During the House of Commons summer recess, 15,000 Canadians will be injured and 400 to 500 will lose their lives at the hands of an impaired driver.

The changes (to the law) will likely prevent some of that carnage. Many people will ask why the Conservatives prefer the potential loss of life over the promotion of their own political agenda. Responsible politicians would act now.

Responsible politicians — indeed.

The suggestion by the Reform House Leader that we, the Progressive Conservatives, would be responsible for the carnage over the summer is offensive in the extreme, not to mention extremely hurtful and unfair. It also demonstrates a stunning lack of understanding of how changes in the law are implemented and the time it takes. I was left to wonder how he could think, let alone say, such a thing. We are talking about the precious lives of Canadians. To see a parliamentarian trying to score cheap political points at the expense of our dead and injured is repulsive.

I have to believe that these comments do not reflect the views of some of his colleagues who worked long and hard for changes to the law. I am speaking, of course, about the MP from Prince George—Bulkley Valley, British Columbia, Mr. Dick Harris, and the MP from Surrey North, Mr. Chuck Cadman. In the end, to everyone's complete satisfaction, Mr. MacKay was credited for his stance when he received the assurance in writing from the Minister of Justice that a new bill would be introduced amending section 255(3) of the Criminal Code to raise the maximum penalty for impaired driving causing death from 14 years to life imprisonment.

I wish to express my personal gratitude to my colleague Mr. MacKay; to the Government Leader in the House of

Commons, Mr. Boudria, and to the Minister of Justice, Ms McLellan. That is an excellent example of bipartisan cooperation for the good of the country.

Honourable senators, our laws are only as good as the public's knowledge of them or our will to enforce them. Our penalties for criminal acts are only as good as our willingness to implement them. Research has shown that there is a high degree of ignorance of our impaired driving laws, an indication that governments at all levels must cooperate in the development of public awareness and education programs.

• (1810)

We have increased the penalties with this bill and will do so again in the fall with the life sentencing bill.

These new laws will only be effective if our justice system applies the law to its fullest extent. Certainly, in the past, sentences handed down have been significantly lower than what is allowable, and victims are often traumatized by their experiences in the courts. Bill C-82, with its minimum and maximum sentencing requirements, will go some way to addressing this problem.

The passage of Bill C-82 also goes some way to addressing the concerns of those who urged me to do something. However, I was but a small cog in the wheel that moved this issue forward.

We all know the statistics: Four to five Canadians killed daily, 125 injured, \$9 billion annually in direct and indirect costs, and the inestimable number of Canadians who are direct and indirect victims of these crimes. A particularly startling statistic is that alcohol is involved in approximately 42 per cent of all vehicle fatalities — especially on weekends, when it is estimated by the Traffic Injury Research Foundation that one in eight drivers is impaired. It is a scary thought, is it not, as you are driving home at night?

Statistics are just that — statistics. We never think such tragedies will happen to us, and that, thankfully, is understandable. However, they do happen to us, and it is important that we put a human face on all of these numbers. I will use the next few moments to do just that.

We should all think of the Dupres of Greely who lost their son and twin brother on the very first day of this year, 1999; and of Zoe Childs of Kemptville, just outside of Ottawa, and her family after she, in the same crash, sustained life-altering injuries that left her paralyzed from the waist down; and of Samantha Kilminster of Kingston, whose losses are almost unbearable to think about — her husband, two sons and her niece. She survived the November 1998 crash, as did her third son — the horror of it all.

We should all think as well of Mr. and Mrs. Carl Rattray of Harrowsmith, whose daughter, Jamie Lee, was the niece in the Kilminster vehicle, being driven home from babysitting the Kilminster children; and of the families of Christina Carson and Jennifer Schaus, who were killed en route to their high school in Winchester on the morning of October 24, 1996.

What do we parliamentarians say to the family of a healthy, vibrant Gerald Murray, who was killed at 11:30 in the morning in Val-des-Monts, just outside of Ottawa, on his way to have lunch with his five grandchildren on January 7 of this year?

What do we say to Scott DuBois and his mother Diane? Scott's mom and dad, John and Diane DuBois, were driving along Highway 417 just outside of Ottawa this past February on their way back from Montreal where they were visiting Mrs. DuBois' sick mother. Who would ever think, when driving along on a divided highway, that, out of nowhere, you would be confronted with a vehicle going the wrong way? Mr. DuBois was killed — the shock and horror of it all. He probably had little time to think of what was happening, or to react.

Then there is the Gericke family, in a case eerily similar to that of our own family, where the father and oldest son were killed. In our case, it was the mother, my daughter Linda, and her eldest son Brian, who were killed. The crash that involved the Gericke family happened one year and four days after we lost our loved ones, and the perpetrators in both cases, the Gericke's and ours, were sentenced on the same day in July 1997.

The lists and circumstances could fill pages. I cannot possibly refer to all the tragedies, but my thoughts also turn to the family of Rosemary Bleackley who was killed on Highway 31, just outside of Ottawa in July 1994; and to James and Mary Agapotis, whose son Dr. Michael Agapotis was killed in a Nepean intersection in July 1993; to the family of Roeann McNeely of Smith Falls, who was killed near Carleton Place when her car was struck by a drunk driver who had crossed the road into her path; to the Peplinski family, from just outside of Ottawa, whose son was killed walking along a road; to the family of Robert John Hamilton, who was a passenger in a vehicle that crashed here in Ottawa at Carling Avenue and the Queensway; and, of course, to two people I have come to know and admire, Colleen MacKenzie, whose son Blair was killed just two weeks prior to his 21st birthday, and Susan McNabb, the mother of Shane Norris, who was struck down and killed in the west end of the city as he rode his bicycle home. Colleen and Susan are the driving forces behind the Ottawa chapter of MADD.

You will now understand, honourable senators, what I mean when I say that I am but a small cog in a big wheel that is rolling forward, demanding action, and now, thankfully, achieving positive results.

I feel honoured to be associated with my colleagues from the national board of directors of Mothers Against Drunk Driving — the chair, Tony Carvahlo; our president, Susan MacAskill from Nova Scotia; and our excellent executive director, Andrew Murie — and with our members from all across Canada. Their names include: Brad Dixon of Vancouver, Herb Simpson of Ottawa, Dr. Richard Swinson of Toronto, Ken Tanenbaum of Toronto, Pam Dutton of Coldbrook, Nova Scotia, Sandra Henderson of Kitchener, Jack MacLeod of Vancouver, Kathie Macmillan of Toronto, and, of course, MADD's founder, John Bates of Islington. To that list I add Chris George of Ottawa, who works

for MADD in government relations as National Communications and Public Policy Advisor — and whom most of you have probably met — and Dr. Robert Solomon, who is our National Director of Legal Policy, an expert on the law in this country if I ever saw one.

We have taken a major step, but there is more to do, much of it regulatory, such as provision of devices for police to deal with the problem before the fact. Why not address the issue at source rather than after the crime has been committed?

As my colleague in the other place said, we in the Progressive Conservative Party would very much like to see police officers being given the ability to take an automatic breath sample at the scene of an accident or a crash — because sometimes there are accidents that are not alcohol-related — where there are reasonable and probable grounds to believe that alcohol is involved. We would also like to see greater use of passive alcohol sensors and mobile digital breathalyzers and that type of technology. We would also like to see greater training for police officers to recognize drug and alcohol impairment.

In conclusion, I believe that Bill C-82 is an extremely positive step. It is a non-partisan issue which most of us have participated in and embraced. As I said at the beginning, I am grateful to have been a participant in this debate. I believe we are duty bound to continue the good work, in cooperation with so many people who have been so instrumental in bringing this important bill before Parliament.

When the bill comes back from committee, I should like to speak for a few moments on some positive initiatives that were taken to honour Linda and Brian. These initiatives involved hundreds of people across the country, many of whom are in this chamber. I speak, of course, of the LeBreton-Holmes Memorial Scholarship Fund at the University of Ottawa and the impact that fund is having on young law students and hopefully on their future work in the criminal justice system.

Once again, I thank all honourable senators for their attention. I urge speedy passage of Bill C-82.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I did not interrupt Honourable Senator LeBreton at six o'clock because Honourable Senator Prud'homme had sent me a note that he had agreed not to see the clock.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1820)

NORTH ATLANTIC TREATY ORGANIZATION

INVOLVEMENT IN YUGOSLAVIA—RELATIONSHIP TO INTERNATIONAL LAW—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the question of international law: Canada and the NATO action in the Federal Republic of Yugoslavia.—(Honourable Senator Grafstein)

Hon. Jerahmiel S. Grafstein: Honourable senators, before I start, I can advise that I wish to go beyond the one minute. Perhaps I might seek leave in advance.

Senator Lynch-Staunton: For how long?

Senator Grafstein: I estimate approximately 10 minutes.

Senator Lynch-Staunton: Why do we have rules?

The Hon. the Speaker: Senator Grafstein is requesting leave. Is leave agreed?

Hon. Senators: Agreed.

Senator Grafstein: Honourable senators, to continue:

Under international law, and since WWII in particular, the majority of states' rights and duties appear to flow from treaties and conventions, freely entered into. These conventions and treaties are part of the conventional law that still depends on customary law. What makes a convention or a treaty binding is a customary rule that, once a state enters into a convention or treaty, it is obliged to fulfil its obligations. Like the common law, customary law grows in episodic ways. It adapts to new situations, not by a regular process. It grows by actions and conduct. As Oliver Wendell Holmes once explained the development of common law:

The life of the law is not logic but experience.

This epigram applies with even greater force to international law. Multilateral treaties, conventional law, provide an alternate, not an exclusive substitute for the customary international rule of law. Rather, it is a different branch of the same trunk. This is an organic doctrine of law. This is the "growing tree" doctrine, deployed in domestic law by case law, and it is that same organic doctrine that amplifies the principles and illuminates the precedents experienced under normative treaties. It may come as a surprise that, notwithstanding the various trade and business exchanges on tariffs, subsidies, finance and social policies, almost 50 per cent of the total learned, academic work on international law emanates from the most dangerous form of state intercourse — namely, acts of belligerency and war.

It was in 1899, 100 years ago, and then again in 1907, less than 100 years ago, that the first multilateral treaties of wide application respecting the conduct of belligerents, commonly called the Geneva Conventions, were codified from the customary law. These set out rules respecting belligerency and, in particular, the treatment of prisoners of war and civilians and, most especially, protection of neutrals. Even these principles emerged out of customary precedents. At the turn of this century, Americans were obsessed — preoccupied, to say the least — with having their neutrality protected from the whims of European intrusions or wars. The Monroe Doctrine, amplified by Theodore Roosevelt to extend to the Far East, reigned supreme. The U.S.-led effort, which led to the Geneva Conventions, was based on their desire to protect their neutrality.

Honourable senators, let me be clear. Let us separate questions of private international law from public international law. The private international law is applicable to commercial exchanges and is distinct from public international law.

The mystery of international law, as some say, can be clarified with one simple statement: International law limits the state. It constrains the sphere of a state's ability to exercise its authority abroad and, more directly, in Europe, especially since the Helsinki Accords, in 1975, incorporates rules of conduct at home. As senators will recall, the Helsinki Accords traded border sanctity for conformity to a higher standard of "human rights" treatment and compliance at home. Minorities' rights were to be accorded respect and equal treatment. In other words, during the Soviet period, during the Cold War, the Soviet Empire agreed to the Helsinki Accords for recognition of the sanctity of their borders in exchange for a higher recognition of domestic human rights at home.

The former Republic of Yugoslavia, and now the Federal Republic of Yugoslavia, acceded to the Helsinki Accords.

International law is meant to regulate state activity to conform to certain norms. We should note that customary law does diverge from English common law. Whereas the English common law seeks to give detail to practical principles, there is most often a divergence in customary international law because the interests of states so often divert. Yet this rather strange gap has been slowly cured by closer integration, by the glue of multilateral treaties entered into freely by states. Uncertainty in international law is not necessarily a criticism. Laws are stated in general terms whereas facts are never general.

States still argue that the rule of international law is subject to "political" questions of "sovereignty." Here may I emphasize the oft-used "thesis" of "political sovereignty." For example, in Nazi Germany, the German Supreme Court determined that the issuance of a birth certificate or a taxi cab licence to a Jew was defined as "political." Once called a "political" question, the subject-matter lay outside the purview of the normal German rule of law and thus logically beyond the jurisdiction of the domestic German courts. In effect, the "vital political interests" of that state, it was argued, were superior to and thus diverged from local law norms.

Whenever the interests of the state could be defined as a question of "political interest" or "vital interest," this became a matter beyond law — a matter of "political sovereignty." As Brierly noted in 1944, the political theory that defined

vital interests of the State as political
has

gone out of fashion although it continues to be indecently argued.

Hence, sovereignists argue that the international rule of law is optional. International law, they argue, gives way to vital interests or political interests and sovereignty, hence compliance with international norms and treaties is neither compulsory, nor unconditional, nor even reciprocal.

It is interesting to note that legal recognition of the state, the *de jure* versus the *de facto*, was once solely premised upon a judgment or an assessment by other states of a nascent state's convergence with a particular group armed with popular support that could exercise control and power over a particular land mass alone. Wilson's idea of "self-determination" at the turn of the century was the inner kernel of that principle. However, especially since 1975 with the Helsinki Accords, the states wishing to join multilateral organizations in Europe, such as the Council of Europe or the OSCE, require assent and conformity to international codes of humane conduct. These codes were articulated by conventional law: humane treatment of its population, gender sensitivity, minority sensitivity — a wide array of additional hallmarks. In essence, adherence to democratic norms, including freely elected assemblies, are becoming post-Helsinki hallmarks of *de jure* recognition of a state. In effect, a state has a duty to conform to international standards of democratic conduct in order to enjoy the fruits of membership in the democratic family of states. Time does not allow me to expand on this rather dramatic shift in international law. Yet, there has been a clear, unmistakable customary practice as well as the conventionally inspired practice in international law developing that state sovereignty should not be legally recognized unless they demonstrate their interest and conduct in conforming to these international and legally recognized norms in the treatment of their proposed "citizens" or their existing "citizenry." For example, membership in the European Union carries a precise set of preconditions. This, in summary, is the nature of the debate about Cuba and the future vitality of the Organization of American States — adherence to international democratic norms in human rights for membership in international organizations, and thus acceptance of the international family of states.

Honourable senators, when it comes to the question of war, "just war," it is clear that international law constrains the freedom of states to resort to war. As mentioned earlier, it was Catholic theologians and canon lawyers who created the doctrine flowing from St. Augustine, St. Thomas and Ignatius Loyola that war could be "just" under certain conditions. Canon lawyers transferred this doctrine from the ethical to the legal realm.

The rationale for "just cause" has not changed in centuries. "Just cause" for a "just war" could be argued for three distinct and different reasons. It was for self-defence, recovery of stolen property, or the punishment of wrongful acts committed by a state. The ultimate and "lawful" sanction to uphold law was "just war, in a just cause." Obviously this doctrine had difficulties. It required a determination, a judgment on the facts, of which side was "just."

• (1830)

Evidence had to be provided that the rule of law was the rationale whenever a society, a state, or a society of states collectively organized to resort to war as a sanction in the name of a "just cause." "Just cause" required evidentiary demonstration. Grotius, we were told, could not overcome his scepticism with the rationale for "just wars." Hence, he lamely concluded that the reliance on the "conscience" of the enforcing states was the basis of the international rule of law — a rather pale, a rather weak rationale at that.

As Brierly fairly pointed out:

The attempt to distinguish between "legal" and "illegal" always had a sense of unreality.

In effect, the sanctioning nations are obliged to make a legal case for "just cause" for war. Each case must be measured by the facts, filtered by customary and conventional international law.

While the legal basis for resorting to war always presents difficulties, once war breaks out, both sides have the same rights and duties to limit their freedom of action against unarmed citizens, the wounded, soldiers or neutrals. So let us turn to the NATO action more closely for a moment.

There are two arguments against NATO's action. First, the UN did not sanction the NATO action by Security Council resolution. Second, NATO may have exceeded its own Charter as an alliance created purely as a defensive alliance. Proponents of this position argue that that was an action beyond the borders of any NATO member state. This forceful intervention went beyond the boundaries of a NATO state and addressed the internal conduct of an adjacent state and hence inimical to the doctrine of state sovereignty and NATO's charter.

As to the sanctioned party, the Federal Republic of Yugoslavia's repeated and serious breaches of international law have not been questioned, nor contested, nor satisfactorily argued. About this, there can be no serious question.

I remind honourable senators that even the Federal Republic of Yugoslavia assented to certain UN resolutions which they failed to maintain. Let me enumerate a few of the breaches of customary and conventional international law made by the Federal Republic of Yugoslavia under the Milosevic government. The list is long, but I want to put it on the record. I will quote the various conventions that they have breached: the United Nations

Charter, 1945; the UN Declaration of Human Rights, 1948; the UN Convention on the Prevention and Punishment of the Crime of Genocide, 1951; the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1953; the UN Covenant on Charter and Political Rights, 1966; the UN International Covenant on the Elimination of All Forms of Racial Discrimination, 1969; the Helsinki Agreement, 1975; the Convention of the Elimination of All Forms of Discrimination Against Women, 1979; the United Nations Declaration on the Rights of Peoples to Peace, 1984; the Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment, 1984; Conference on Security and Cooperation in Europe, 1989.

Honourable senators, I turn as well to the UN resolutions breached by the Federal Republic of Yugoslavia. I will just give you the date line. It is very short and it is encapsulated in the second recital of Resolution 1244 (1999), which Senator Kinsella tabled in the Senate on June 10, and which was debated on that day. That UN resolution was adopted by the Security Council and gave explicit sanction to the peace mission in Kosovo. I refer to the second recital:

Recalling its resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998, 1203 (1998) of 24 October 1998 and 1239 (1999) of 14 May 1999...

That is not an exhaustive list, honourable senators. There is also at the OSCE and the Council of Europe and other regional international organizations similar resolutions condemning the actions of the Federal Republic of Yugoslavia with respect to Kosovo.

For a more definite legal support for my contention, I refer to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide that was passed in 1951. The Federal Republic of Yugoslavia was a signatory to that convention. Even if it were not, that convention is clearly universally accepted as principles of international law.

Article I states:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

I emphasize the words "to prevent and to punish."

Article II states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;

c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part...

Honourable senators, clearly all of these breaches of the Genocide Convention were apparent and repeatedly demonstrable in Kosovo.

Honourable senators, I turn now to the outstanding legal scholar, H. Lauterpacht who, in 1955, revised an earlier treatise by L. Oppenheim, written in 1912, called "International Law: A Treatise." Lauterpacht's 1995 "Revision of Oppenheim" forms a standard text in international law. Lauterpacht's article states, in part:

How is it then that although individuals are not normally subjects of the Law of Nations, they have certain rights and duties and conformities with international law.

That recognized scholar and authority makes the point that, at that time, it was not generally accepted that individuals, as opposed to states, were entitled to protection. States dealt with the states; states did not deal with the individuals. This change of heart is the foundation of many human rights provisions. Lauterpacht:

It is probable that the Charter of the United Nations, with its repeated recognition of "human rights and fundamental freedoms," has inaugurated a new and decisive departure with regard to this abiding problem of law and government. In some instances — as, for example, in the European Convention on Human Rights — that development has assumed the complexion of explicit rules legally binding upon States.

Honourable senators, if one looks at the conventional international law, let alone the customary international law, it is clear that, in Kosovo, all international organizations came to their individual and collective conclusions. Collectively, international organizations passed resolutions, delineating explicit breaches of conventions, treaties, resolutions and customary international law.

To say, however, that the United Nations is the exclusive arbiter of international action, and that only it can legitimize force even in aid of its own mandate, beggars the legitimacy of International Law.

One obvious example, as I pointed out last week, was the Sebrenica "safe haven" issue proclaimed by the UN, which led thousands of innocent citizens to believe that they were protected by international law under the United Nations' banner. They paid with their lives for that belief. The UN failed to enforce its own safe havens. The UN was derelict in its their duty to protect innocent lives under its own charter, specifically with respect to specific resolutions passed by the UN Security Council and breaches of the UN charter.

The UN failed to uphold compliance of its own repeated and "just" resolutions. Further, it failed to defend safe havens on the ground. This failure led directly to subsequent actions by the Federal Republic of Yugoslavia in its ethnic cleansing policies in Kosovo. Under international law, nothing prevents collective action from being taken by sovereign states to enforce UN sanctions and conventions. Clear, unquestioned, unambiguous, egregious, demonstrably serious breaches of international law are at hand. Democratic states have an entitlement under customary law and are not prevented under conventional law from upholding those particular principles of international law.

In my view, there is no prohibition in international law to this effect. It would be prudent for states resorting to force to seek UN sanction, which indeed they tried to do. The UN, as we know, was paralyzed by threatened vetoes of Russia and China, who had no political or even strategic interest in allowing a forceful support of UN sanctions.

• (1840)

Yes, it would be prudent for states resorting to force to seek UN sanction. It would be prudent either as a condition precedent or a condition subsequent.

Senator Kinsella pointed out that perhaps this question may be *functus* because if one looks at UN Resolution 1244, it rather explicitly ratifies *ex post facto* NATO's actions in Kosovo. However, that is not the question before this chamber. The question is: Was NATO action illegal at the time? Prudentially it is better, obviously, for the international rule of law for UN sanctions to be adopted and to be deployed for the use of force. It is a question of prudence as opposed to a question of requirement, and a question of credibility as opposed to a question of international law.

As to NATO exceeding its own Charter, again there is a question of prudence as opposed to legality. Nineteen nations, each member state of NATO who are masters of the NATO Charter, unanimously concur that the NATO Charter and its members were threatened by the Milosevic government's actions in Kosovo. Hungary, Italy and other adjacent states had been threatened with inundation by a huge movement of refugees. It is estimated — and these numbers are not exact — that somewhere between 1 million and 2 million people are on the move within and without Yugoslavia as a result of "ethnic cleansing."

It is true that Milosevic's government does not hold sole responsibility for ethnic cleansing, but clearly in Kosovo he and his government take responsibility. Nineteen democratic states unanimously decided to defend, as Chancellor Schroeder of Germany put it, "the front yard of NATO." There was and is a real and legitimate treat to the stability of NATO's borders if the actions of the Serbian government had gone unchecked.

Honourable senators, the proponents of the illegality of the NATO action failed to take into account the facts. They failed to take into account customary law, the conventional law and the

precedents. Time does not allow me to explore the precedents in full. I would hope, perhaps, to respond during the debate.

Let me conclude by saying that the vital interests of democratic states, all states, lie in the recognition and defence of the humane treatment of individuals, allowing them to freely choose their course within a civil society according to the norms of international law. This is the one paramount principle underlying the legitimacy of any state. NATO came to the aid of international law itself when it was degraded and abused by egregious conduct. Honourable senators, international law was rescued by international law.

On motion of Senator Roche, debate adjourned.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF THE DELEGATION ON THE SECOND PART OF THE 1999 SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE—INQUIRY

Hon. Lorna Milne rose pursuant to notice of June 8, 1999:

That she will call the attention of the Senate to the report of the Canada-Europe Parliamentary Association Delegation to the Second Part of the 1999 Session of the Parliamentary Assembly of the Council of Europe, held from April 26 to 30, 1999, in Strasbourg, France.

She said: Honourable senators, I rise today to discuss briefly my trip in April to Strasbourg, France, where I attended the Second Session of the Council of Europe Parliamentary Assembly.

We were a delegation of seven parliamentarians, led by Aileen Carroll and consisting of myself, Senator Grimard, Raymond Folco, Louise Hardy, Francine Lalonde and Gary Lunn. We were joined in Strasbourg by Mr. John Noble, Canada's Ambassador to Switzerland and Liechtenstein and Canada's Permanent Observer to the Council of Europe's Committee of Ministers.

As official observers, the Canadian delegation participated fully in all aspects of this session. This included participation in political groups and committees. The delegation also intervened in three separate plenary debates. Ms Carroll's lead intervention on Kosovo, in particular, and Ms Hardy's moving speech about problems connected to the return of refugees to Croatia were well received by the assembly.

The Committee on Legal Affairs and Human Rights held four meetings during the week. The major items discussed were the judicial authority of the Council of Europe, a draft report by Lopez-Henares on terrorism within the European democracies, and a draft report on the International Criminal Court. The committee also discussed the possibility of setting up an ad hoc committee on the rights of national minorities and started to examine a draft report entitled "Additional Protocol to the Convention on Human Rights and Biomedicine and the Transplantation of Human Organs."

This committee also thoroughly considered a draft report of the situation of the refugees and displaced persons returning to Croatia. A delegate from the Netherlands, Hanneke Gelderblom-Lankhout, gave a very disturbing account of the current situation facing the refugees who are returning to their homes there. The report was adopted and was reported to the full Parliament. This debate was of particular interest to me, as much of the Council of Europe's session which I attended last September was centred on the then impending crisis in Kosovo.

Most of the debate and corridor discussion during this session again centred around the dreadful situation in Kosovo and the plight of the refugees and displaced persons. It is so vitally important, now that a peace agreement has officially come, that we look beyond the type of settlement dictated by the Dayton Accord and learn from its mistakes. It is to be hoped that some day Kosovo will again be a fairly peaceful, multicultural area, as it was before Milosevic started deliberately raising ethnic and religious hatreds for his own political gain. I am afraid, though, that it will take a long time for the hatred that has been aroused to die down. Now NATO and the United Nations, as we have seen in the papers yesterday and today, are a subject of hatred there.

I wish to make it quite clear that one of the most enlightening parts of a trip such as this is to discover just how much Canada is respected and listened to on the international scene. This was the second time that I had been to Strasbourg, and it was much easier to gain opportunities to speak and to make an impression. The other delegates begin to recognize you as a Canadian, and to invite your input into reports coming out of the different committees and your participation in the debates.

Honourable senators, I believe that the Council of Europe, widely regarded as the conscience of Europe, is a valuable and influential forum for debate and, eventually, for real action by the governments of Europe.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, this inquiry will be considered debated.

[*Translation*]

REVIEW ON ANTI-DRUG POLICY

MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE—
DEBATE ADJOURNED

Hon. Pierre Claude Nolin, pursuant to notice given June 2, 1999, moved:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specifics needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs is more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy

and, finally, to make recommendations for of an anti-drug strategy developed by and for Canadians under which all levels of government to work closely together to reduce the harm associated with the use of illegal drugs.

That, without being limited in its mandate by the following, the Committee be authorized to:

- review the federal government's policy to reduce the use of illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
- develop a national harm reduction policy in order to lessen the negative impact of illegal drug use in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;
- study harm reduction models adopted by other countries (treatment programs and parallel programs aimed at illegal drug users) and determine if there is a need to implement them wholly or partially in Canada;
- examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights in order to determine whether these conventions authorize it to take action other than laying criminal charges;
- explore the effects of cannabis on health and examine the issue of whether decriminalizing cannabis would lead to increased use and abuse in the short and long term;
- examine the possibility of the government using its regulatory power under the Contraventions Act as an additional means of implementing a harm reduction policy, as is commonly done in certain European countries;
- examine any other issue respecting Canada's anti-drug policy that the committee considers appropriate to the completion of its mandate.

That the special committee be composed of eight Senators and that four members constitute a quorum;

That the committee have the power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence from day to day as may be ordered by the committee;

That the briefs received and testimony heard during consideration of Bill C-8, respecting the control of certain drugs, their precursors and other substances, by the Standing Senate Committee on Legal and Constitutional Affairs during the second session of the Thirty-fifth Parliament be referred to the committee;

That the committee have the power to engage the services of such counsel (researchers, lawyers, medical specialists, addiction workers, and so on) and technical, information technology, clerical and other personnel as may be necessary for the purposes of its examination:

That the committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee be empowered to adjourn from place to place within and outside Canada;

That the committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95 (2) of Senate rules;

That the committee submit its final report not later than two years from the date of its being constituted; and

That the committee be empowered to continue to exist after the date on which it is to conclude its work in order to inform members of the Senate and the House of Commons, the Canadian public and any other person or association interested in its work, to disseminate the Committee's conclusions and recommendations by means of press releases, press conferences, information sessions or any other activity members of the committee deem appropriate at a particular time.

He said: Honourable senators, before beginning debate on my motion, I would like to introduce an amendment.

On June 2, 1999, after my motion was tabled, I was informed that this motion would have to be amended by deleting paragraphs 6 and 8 to conform to the *Rules of the Senate*.

• (1850)

I understand that His Honour may, with leave, amend the text of motions. I am referring to the paragraphs that read as follows:

That the committee have the power to engage the services of such counsel (researchers, lawyers, medical specialists, addiction workers, and so on) and technical, information technology, clerical and other personnel as may be necessary for the purposes of its examination;

And paragraph 8, which reads as follows:

That the committee be empowered to adjourn from place to place within and outside Canada.

I move this motion in amendment because I got a little ahead of myself. In a later debate, I will bring forward a proposal concerning these two paragraphs to the Standing Committee on Internal Economy.

The Hon. the Speaker: Honourable senators, Senator Nolin is asking for leave to delete part of his motion: the two paragraphs he just read. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, I am asking for leave to speak for more than my allotted 15 minutes.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, I move that this motion, as amended, be adopted.

The Hon. the Speaker: The Honourable Senator Nolin, seconded by the Honourable Senator LeBreton, moved that the motion, as amended, be adopted. Do you agree to dispense with actually reading the motion?

Hon. Senators: Agreed.

Senator Nolin: Honourable senators, on June 19, 1996 — for the benefit of those of you who were not here at the time, and that is why my introduction refers to a debate held three years ago — during the Second Session of the Thirty-third Parliament, during the final debate at third reading in the Senate of Bill C-8, respecting the control of certain drugs.

I was strongly critical of the refusal by all previous governments, not just the government that introduced this measure, to consider a serious study of Canada's anti-drug laws.

At the time, I maintained that this was almost a deliberate unwillingness to see. I am speaking not just about honourable senators, but also about members of the other place. In my view, this attitude has meant that successive governments of all stripes have viewed drug use in Canada as a criminal rather than a public health matter. My view of this has not changed.

Worldwide, the illegal drug industry generates annual sales of \$400 billion U.S. This money feeds organized crime, corrupts governments in many countries, contributes to violence, and encourages parallel economic development.

In many areas of the world, the fight against drugs leads indirectly to the spread of infections such as HIV, human rights violations, environmental damage, and the mass incarceration of persons charged with possession.

As you will read in the document you received, or will receive shortly — it is a briefing paper to provide additional information to those wishing to take part in the debate — an increasing number of countries have given up the fight against drugs because of the negative impact. However, in 1996, Canada passed prohibitionist legislation with criminal provisions that seem to fly in the face of Canadian and international human rights charters.

Let us look initially at the situation in Canada. The indirect effects and costs of drugs far exceed the direct ones. They bear little relationship to the level of consumption, and result not from the drugs themselves, but from punitive laws and political policies. The effects are felt primarily by the populations at risk, such as native peoples, young street people, people living in poor neighbourhoods and intravenous drug users.

Allow me, honourable senators, to elaborate on each of these four groups of individuals, of Canadians at risk.

Among native people, alcoholism and drug abuse are rampant. Depending on the location involved, between 65 per cent and 80 per cent of residents are affected by these problems. The principal cause of deaths among the Amerindian and Inuit populations are wounds and poisoning. The violent death rate is three to four times higher than in the general population. The number of deaths in which alcohol or drugs play a determining role is five times greater among native people than it is among non-native people. Two thirds of the native population dying an unnatural death have alcohol in their blood, compared with 45 per cent of the non-native population.

Here are two facts. First, the rate of suicide among native children in Saskatchewan is 27.5 per cent higher than among other Canadian children. Second, young natives are between two and six times more likely to have an alcohol problem than their counterparts in the rest of the population. These two facts, honourable senators, may perhaps explain the despair of their survivors.

A second group at risk is that of street children. They are also affected by the use of illicit drugs. A number of adolescents leave home to avoid physical, psychological or sexual violence or negligence on the part of their parents. Once on the street, they take risks, which include the use of illicit drugs and needle sharing.

A national study in 1989 revealed that one street child in four used marijuana daily, 4 per cent use cocaine and 4 per cent LSD. In a recent study, nearly ten years later, half the street children in Montreal were found to use intravenous drugs and are hard hit by suicide and overdose. The chance of their dying is 12 times greater than that of their peers.

A third high-risk group is people living in poor neighbourhoods. In large Canadian urban centres, these people also suffer the consequences related to the use of illicit drugs. For example, in Vancouver, a state of medical emergency resulted from a rapid increase in the number of HIV cases among users of injectable drugs, more specifically in Vancouver East, where the prevalence rate of such cases went from 20 per cent in 1997 to 35 per cent in 1998, that is in less than one year. This is unfortunately a world record.

• (1900)

Vancouver also has the largest number of deaths by overdose in Canada, with over 300 in 1998 and more than 2,000 since 1991. These rates of infection and drug addiction are related to poverty and social disruptions in downtown Vancouver.

The use of injectable drugs poses a direct risk of infection with HIV and other viruses such as hepatitis, through the sharing of contaminated syringes. The absorption of drugs through techniques other than injections poses an indirect risk, to the extent that it may lead to unprotected sexual relations and to the consumption of injectable drugs. The incidence rate, which is the rate of new HIV cases, is very high in certain Canadian cities. It is 10 per cent in Vancouver, the highest in the Western World, and 7 per cent in Montreal and in Ottawa. It is even higher in certain regions of the country, including among aborigines. The World Health Organization estimates that there is a risk of a general epidemic when the infection rate among injectable drug users reaches 10 per cent in a given region.

The situation is so serious in Vancouver that a motion was brought forward at the end of 1998 by Libby Davies, the NDP member for Vancouver East, after the state of health emergency to which I referred earlier was declared in her riding. Her motion called on the federal government to cooperate with the provinces in order to implement clinical, multi-centre heroin prescription trials for injection to opiate users, including protocols for rigorous scientific assessment and evaluation, as is already being done to varying degrees in Switzerland, in the United Kingdom and in certain German and Australian cities. There will soon be such a program in place in Spain as well.

Honourable senators, let us look now at the application costs of Canada's drug policy. This war against drugs does not only have negative consequences on the lives of thousands of Canadians. Drug abuse also involves considerable costs to our society. The use of illicit drugs was responsible for the death of 732 Canadians in 1992, which represents 0.4 per cent of Canada's total mortality rate for that year. Forty-two per cent of those committed suicide, 14 per cent died from opiate poisoning, 9 per cent died from cocaine poisoning, and 8 per cent died from AIDS contracted through intravenous injection. In that same year, 1992, the use of illicit drugs was responsible for 7,100 cases of hospitalization and 58,000 days of hospitalization, half of which were the result of a psychosis caused by an assault or by cocaine abuse.

Let us turn to the economic cost for Canada. All in all, drug abuse cost Canadians more than \$18.4 billion in 1992, that is \$649 per capita or 2.7 per cent of Canada's gross domestic product. The economic cost of the drugs themselves is estimated at \$1.37 billion, or \$48 per capita. These estimates include \$823 million in loss of productivity due to morbidity and premature deaths, \$400 million in drug enforcement and \$88 million in direct health costs.

It is important to point out that, although drug use is involved in many crimes, its role is not clear. Users get their supply from a lucrative and violent market where crime is ever present. The use of illegal drugs contributes to the rise of crime and therefore to law enforcement costs. It is one of the motivators of crimes against property and violent crimes perpetrated to ensure control over a territory, like what we have seen recently in Quebec, with the biker wars in Montreal and Quebec City.

Canada has had three opportunities to put an end to some of the individual and collective consequences of trafficking and use of illegal drugs that I have just mentioned.

First, in 1969, the Le Dain commission held serious consultations on the negative impact of the Canadian drug policy at that time. Since the commission focused mainly on the non-medical use of drugs, it concluded that hundreds of thousands of Canadians found guilty of prohibited drug possession saw their personal freedom restrained for the rest of their life because of a criminal record.

The commission also concluded that the huge police resources used to fight prohibited drug trafficking and consumption were mainly aimed at young people. Under the circumstances, the Le Dain commission recommended that sanctions against drug users be gradually eliminated, that the use of marijuana be decriminalized and that control methods other than criminal justice sanctions be used.

That was almost 30 years ago. However, former commission chairman Gérard Le Dain is still convinced that its recommendations are as valid today as they were in 1971, even though at that time there was no legislative follow-up of any kind on its recommendations. According to this former dean of the prestigious Osgoode Hall Law School at the University of Toronto and former Justice of the Supreme Court of Canada, politicians are the only ones to blame for not having taken initiatives on this issue at the beginning of the 1970s. In 1998, in an interview with *The Edmonton Sun*, Mr. Le Dain said, and I quote:

[English]

It was a hot potato for all the parties and they didn't want to run any risk. The position adopted by the politicians was to do nothing. We saw at the hearings the public was worried about their kids. The public saw those current laws as a tremendous injustice.

[Translation]

A bill to decriminalize the possession of cannabis, Bill S-19, was rejected in 1975. During the 1970s, the number of convictions for possession of cannabis grew from less than 1,000 to over 40,000 a year.

Second, in 1978-79, a Health Canada report, kept secret up till the end of last year, recommended that the federal government decriminalize the use of marijuana. This report, as you can imagine, was shelved by the department.

With the advent, in the 1990s, of new legislation on narcotics, we could have dealt with some of the problems left by previous legislation and benefited from other countries' experience. However, the new Controlled Drugs and Substances Act was fundamentally prohibitionist and, far from dealing openly with the drugs issue, it reinforced prohibition.

The problems arising out of the criminalization of drug users, out of its economic and social costs and out of the non-decreasing supply have still not been dealt with. Therefore, both human and financial costs resulting from illicit drug use remain needlessly high, whereas the costs created by the criminalization of illicit drugs use keep increasing in a regular, foreseeable but avoidable way.

With regard to my motion of June 2, you will agree, honourable senators, particularly when reading the document handed out to you, that this situation is intolerable.

• (1910)

It cannot go on like this indefinitely. For this reason, on June 2, I brought forward in this house a motion requesting that a special committee of the Senate be struck to reassess Canada's anti-drug legislation and policies. This committee will carry out a broad consultation of the Canadian public to determine the specifics needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more prevalent. It will also develop proposals to disseminate information about Canada's anti-drug policy and, finally, it will make recommendations for an anti-drug strategy to be implemented Canada-wide, a strategy under which all levels of government will work closely together to reduce the harm associated with the use of illegal drugs.

I would now like to say a few words about the report of the Senate Committee on Legal and Constitutional Affairs on Bill C-8 that I just mentioned. On June 13, 1996, the chair of the Standing Senate Committee on Legal and Constitutional Affairs, the Honourable Sharon Carstairs, tabled the committee's report on Bill C-8, respecting the control of certain drugs and other substances. In that report, the committee members, including myself, recommended some amendments to Bill C-8. Thank God, and this shows how much of a problem we had, we succeeded in allowing the growing of hemp for commercial purposes in Canada. After an extensive debate in the House of Commons and in the Senate, we finally understood that we were quite stupid to continue to prohibit this substance, which has nothing to do with the Indian hemp referred to when we talk about marijuana. This shows that many prejudices and myths I will now refer to existed back then, prejudices and myths that, I hope, do not exist anymore.

After a review that lasted over three months, the committee report proposed several amendments to Bill C-8, but mostly stressed that to carry out a proper study of the principles and provisions contained in the bill it was necessary to complete the inadequate technical, moral and sociological information provided by officials from the health and justice departments, and other agencies involved in the development of Canada's narcotics control policy.

In order to fill this gap, the committee proposed to set up a joint committee of the House of Commons and the Senate to scrutinize every national drug act, policy and program. The first part of my motion is a carbon copy of the committee's recommendations regarding the mandate of such a committee.

As you know, since we tabled our report, no committee of this kind has been put in place to answer senators' legitimate concerns. The Canadian population also needs complete and non-partisan information on this complex issue. And yet, the situation in this matter keeps on changing.

Let us look at the change in the situation in the area of illicit drugs. In the past three years, a number of clinical studies have been done in order to scientifically measure the physical and psychological effects of using cannabis and of methadone substitution treatments. For the first in its history, the Quebec College of Physicians officially spoke out in March in favour of the use of methadone to reduce the risks of infection and the spread of AIDS and hepatitis among intravenous drug users.

On March 17, 11 experts from the prestigious National Academy of Science Institute of Medicine in United States published the results of a study commissioned by the White House director of drug control policy. The report concluded that there was definite potential for the use of marijuana for medical purposes. In November 1998, seven American states organized referendums during mid-term elections in order to seek public approval for measures to relax extremely strict regulations on the use of cannabis in the treatment of patients. Six states, with the exception of the District of Columbia, approved the proposed measures.

On April 21, the Canadian Association of Chiefs of Police recommended to the federal government that possession of small quantities of drugs, including heroin, be decriminalized but not legalized. The most encouraging aspect of the position taken by the association is that it recommends the people of Canada and the federal government take an approach that would treat all matters pertaining to the consumption of drugs as a public health matter.

That was being said three years ago. We were saying exactly this three years ago. Finally, little by little, things are moving forward. It would be vital therefore according to the association that a Canadian drug control policy be developed that would lead to the development of treatment for the real problem created by the consumption of drugs both for society and for drug users. Such a policy would incorporate a damage reduction strategy in an effort to avoid worsening the problem by trying to ease it. According to the heads of the association, the justice system and punishment are not the only solution to the problem of the consumption of illegal drugs, and the resources allocated would be better used in the fight against drug trafficking and organized crime. This position was supported by the RCMP.

In recent years, a number of court rulings concerning the right to use cannabis for medical purposes have tested Canada's drug control policy. You are undoubtedly aware of the case of Jim Wakeford, a Toronto resident with AIDS who uses marijuana to quell his nausea. Until very recently, he was trying to get Health Canada to exempt him from the provisions of the Controlled Drugs and Substances Act that make it a crime to possess marijuana. On May 11, the Supreme Court of Ontario ruled that Mr. Wakeford was constitutionally exempt from the provisions of the legislation and thus permitted to grow and smoke marijuana for medical purposes.

Similarly, in 1997, Judge Patrick Sheppard acquitted Terry Parker, an epileptic who used cannabis for therapeutic reasons, of charges of possessing and growing the drug. He had been found guilty of trafficking and sentenced to one year on probation. In his ruling, Judge Sheppard said that the Narcotic Control Act and the Controlled Drugs and Substances Act were too broad, that they were unconstitutional, and that they violated the Canadian Charter of Rights and Freedoms.

In addition to challenging the law and the right to possess marijuana, all these rulings are also, and above all, aimed at introducing into the debate an element of compassion and respect for the right of the individual.

I would like to say a few words about the motion moved by Bloc Québécois member Bernard Bigras. This motion was recently introduced and voted on in the other place. Naturally, it captured the interest of parliamentarians. Mr. Bigras, the Bloc Québécois member for Rosemont, called on the federal government to undertake all necessary steps to legalize the use of marijuana for health and medical purposes. The motion had the support of a number of associations, including the Fédération de l'âge d'or du Québec, and the Compassion Club of Toronto, which supplies marijuana to those with serious and painful illnesses. It was passed by the House of Commons on May 25. In response to the results of the vote, the Minister of Health, the Honourable Allan Rock, announced that the federal government would move quickly to begin clinical testing of the health benefits of marijuana, which may result in the use of cannabis by those with AIDS, cancer, epilepsy or multiple sclerosis being decriminalized within a few years. I think that we should congratulate the minister on his action.

How do Canadians perceive the use of illegal drugs? On the other hand, despite these recent developments in the use of narcotics, the public's attitude and perception have not, generally speaking, really changed. Prejudices against those who take narcotics remain extremely strong. They are not new. They go back to 1908 when the Canadian Parliament passed the Opium Act. The new Opium and Narcotic Drug Act of 1911 dealt with opiate type drugs and cocaine, and marijuana was added to it in 1923. Since then, prohibition of narcotics and international regulations established by the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances have increased prejudices even more against users of illicit drugs.

Who, among us, has not heard that those individuals are criminals who steal in order to buy drugs, that they are social drop-outs who should be put behind bars? Some people are even shocked by the needle exchange and bleach distribution programs in prisons. Even though the goal of these programs is to control the spread of AIDS and hepatitis among inmates, which have reached an alarming level in correctional institutions, a significant part of our society refuses to admit that drug consumption is a health problem. Such an attitude can be explained in part by the fact that our governments, whatever the level, fail to provide objective information on the true effects of drug consumption on individuals and on society as a whole.

Surprisingly, our leaders, who stoutly defend their repressive policies against drug users by in seminars and information brochures, are unable to explain why those policies do not give concrete results. Those who, in the past, have dared to advocate a different, less conventional approach to those issues have seen their credibility questioned.

It is true that, in the absence of scientific evidence, most people go along with these prejudices. These prejudices are being reinforced daily by the legislation, the courts, police action, and the media. However, these entrenched prejudices did not prevent economists, physicians, lawyers, and political scientists from studying the harmful consequences of drug use and of the fight against drugs.

They have seriously questioned a number of our society's preconceived ideas on this issue. Each year, new detailed studies are being added to the literature on the subject. A wide consensus is emerging on the need to review our anti-drug policy. In the future, research studies could be convincing enough to eradicate myths and prejudices in our political elite, interest groups and our whole society concerning the benefits of this fight against drugs. Marijuana is a good example.

In that sense, we are experiencing a change in attitudes toward the drug control policies and their impact. Lots of things have changed over the years, even if we do not have all the information available to make a good assessment of the situation. Canadians are beginning to realize that the hefty sums being invested in the fight against drug use and trafficking are not yielding the expected results. There is a need for more information on the negative impact of drug use, on experiments being tried in other countries in this area, and on cheaper alternatives to reintegrate into mainstream society a segment of our population that is marginalized at this time.

Given these facts, and in order to promote healthy debate on this whole issue, I asked Diane Riley, in September last year, to make a comprehensive examination of Canadian drug control policy. I can assure you that Ms Riley is one the leading Canadian experts in this area. She also has an excellent reputation abroad.

When I met her, I gave her the following mandate: to give an overview of the narcotic drug consumption situation in Canada, particularly among young people, the disadvantaged and the aboriginal people, and of the economic and social cost relating to it; to explain how legislation on legal and illegal drugs works in Canada; to present the terms of international conventions that Canada must follow in its own drug control policies and to ascertain if Canada directly met these terms when it amended its legislation by passing, in 1996, Bill C-8 on the use of marijuana, methadone and heroin for therapeutic uses; to study the link between drug use and respect for human rights as defined in the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights, particularly with respect to the use of narcotic drugs such as marijuana, methadone and heroin for medical purposes; to present the experiments conducted in other countries like the United Kingdom, the Netherlands, Switzerland,

France, the United States, Germany and Australia, to fight drug use in their communities and develop harm reduction policies; to examine drug use in Canadian penitentiaries and verify whether prisoners have access to treatment and syringe exchange programs, in conformity with their fundamental rights; to explain thoroughly the workings of the strategy for reducing wrongdoings and list the options that Canadians have available to them to reduce the negative impact of drug use in society; and finally, to develop alternatives to improve the current drug use control system in Canada.

As you can see, the mandate that I gave to Diane Riley for the production of this document was aimed at bringing additional information on some points identified by the Standing Senate Committee on Legal and Constitutional Affairs when it examined Bill C-8.

I can say today that this comprehensive study, one of the most complete ever done for the general public, will allow members of the Senate and Canadians to better understand the real effects of drug use and its impact on our society and on the future of this country.

I should point out that besides Diane Riley's work, I asked — the Research Branch of the Library of Parliament to analyse and comment on Canada's international obligations under the main international conventions concerning control and use of narcotic drugs. International treaties included in the analysis are the International Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1998. Canada has signed these three treaties. The in-depth analysis compared the obligations enshrined in these international documents with the Canadian legislative provisions adopted accordingly, particularly those of the Controlled Drugs and Substances Act. The very surprising conclusions of that study are included in Ms Riley's document.

For example, during debate on Bill C-8, the government contended that the bill would allow Canada to meet its international obligations respecting the three treaties I just mentioned. That could therefore justify the repressive approach of Bill C-8.

The Single Convention of 1961 requires countries to impose criminal sanctions for possession. More recently, Canada signed the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which requires countries to treat the possession, buying and cultivation of narcotic drugs for personal use as criminal offences. However, that obligation is subordinated to the principles enshrined in the constitution of each country.

Therefore, the Canadian government could justify departing from the prohibition policy by stating that criminalization goes against the fundamental principle of moderation in our criminal justice system. The other obligation, that of criminalizing the personal use of drugs, only applies when possession is contrary

to the provisions of the 1961 convention. In short, these conventions explicitly provide for exceptions to prohibition. They also allow signatory countries to have them amended or to terminate them. On the basis of certain particular considerations, Canada could use one of these two options to review its drug policies.

I refer you today to the document prepared by Ms Riley to support my remarks in the Senate and to provide you with a complete tool that will better prepare you to take part in the debate on these issues. I hope it helps you analyse the drug control policy from a different point of view.

We must stop using repression and criminalization to deal with our society's problems stemming from drug use. This approach can only make the unbearable situation of drug users even worse. Instead of increasing their chances of becoming contributing citizens, our current policies often have the effect of further marginalizing them. An example of that is the failure of the repressive strategy in the United States. In 1996, our powerful neighbour spent \$16 billion in its war against narcotics. What were the results? More than 90 per cent of narcotics produced abroad and destined for the U.S. market escape detection by U.S. customs officers. Drugs are everywhere, including in the schools; they destroy the lives of thousands of individuals and undermine the social cohesion of large urban centres.

Fortunately, the situation is not that serious yet in Canada. However, with passage of Bill C-8, our policy is increasingly similar to the policy of our neighbours to the south.

The time has come to redefine our outlook on the problems caused by drug use and its effects on the health of individuals. We must change our frame of reference and understand that we will not eliminate drug use by throwing drug addicts into prison. The billions of dollars involved in the criminalization process would be better spent on fighting drug dealers and organized crime. From now on, when we develop drug control policies, we must consider the problem as a public health issue, just as we do for tobacco and alcohol abuse. These policies must, as much as possible, be based on respect for the rights and freedoms of each of our fellow citizens.

On this very sensitive issue, Canada is now at a crossroad—just ask the Minister of Health, he knows. On the one hand, we can choose to keep on using the punitive approach described in Bill C-8. In that case, we give up defending the rights of individuals suffering from serious illnesses who use cannabis to ease their pain. We also give up the fight for the rehabilitation of drug addicts and the protection of our social environment. On the other hand, we can admit that we made a mistake—not only us but a lot of parliaments also made mistakes—when we evaluated this serious social problem, and that we are doing everything possible to find alternative solutions to punitive measures.

The committee I am proposing will give us the opportunity to hear from lawyers and physicians as well as from experts used to working with drug addicts. We will be able to listen to what

Canadians have to say on this issue and rely on their suggestions in order to recommend changes to Canadian drug control policies so that they truly reflect our social values based on human rights, compassion, mutual aid and dialogue.

I want to conclude by quoting Milton Friedman, winner of the Nobel Economy Prize. In a letter to the director of drug control policies in the White House, Mr. Friedman stated:

[English]

The path you propose of more police, more jails, use of the military in foreign countries, harsh penalties for drug users and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining the human liberty and individual freedom that you and I cherish. Drugs are a tragedy for addicts. But criminalizing their use that converts tragedy into a disaster for society, for user and non-user alike. Our experience of the prohibition of drugs is a replay of our experience with the prohibition of alcoholic beverages. Postponing decriminalization will only make matters worse, and make the problem appear even more intractable.

[Translation]

I wish you all a good reading of this document. I hope it will give you food for thought and urge you to directly take part in the debate I have launched.

Hon. Marcel Prud'homme: Honourable senators, I must say that I am a little puzzled by the speech of my good friend. There is so much truth in what he has said. On this issue, I am utterly conservative.

[English]

On this issue, I wish to be sure that we are doing the right thing, because I have seen too much. It is all very well for some of you who live in high-class surroundings where you have no daily contact with the people who are more affected. However, I live in a place such as that, where my sister must pass the broom every morning in back of my own bedroom in order to clean up the syringes. I am careful. However, I am not afraid to study. There is no doubt.

[Translation]

I believe that the committee should be struck. If I am convinced, I will become one of your best supporters. With all these people you are thinking of summoning, with all the reactions this could cause, could you consider reviewing the immediate political reactions to any liberalization in Canada, in terms of our contacts with the United States and of our common borders? Would they let people from our country in vice-versa? That is one of the many concerns I have. I believe in this study, but one must be very conservative and very cautious.

All is not black and white, but with respect to the underlying issue, we could use this as a starting point.

Senator Nolin: Let me first say that I deliberately avoided this particular mandate. When the Opium Act was enacted in 1908, we were reacting to what was going on in the United States. We always reacted to what the Americans did.

During the Second World War, commercial cultivation of hemp — that is now allowed in Canada — which was prohibited up to that time, was authorised for strategic reasons. It was immediately prohibited once again after the war, because the Americans were convinced that it should not be pursued.

I deliberately chose not to include a review of U.S. policies in the mandate. I can assure you that when I talk about policy review, that includes the way we react to U.S. policies and the way they react to ours.

I wanted to make a more polite reference in the mandate that I will ask you to approve and, in due course, we will look at international laws that concern it. I will not hide the fact that our American neighbours have a lot of influence when it comes to formulating international treaties, especially those on drugs.

The answer to your question is yes. It is a cornerstone of the examination we will undertake. I am not trying to convince Canadians that we are right, that they know nothing or that they are wrong. We must help Canadians. We must especially help Canadian politicians look clearly at the situation of heroin users in order to see what may be done.

You mentioned the shooting galleries located near to where you live. These are not found just in Montreal, but in Ottawa, as well. We must stop putting our heads in the sand like the Americans. Yes, indeed. Are we going to force Canadians to accept what we think is good for them? No. We must do this together, and this includes our colleagues in the other House. We proposed to them that a joint committee be set up for Bill C-8, and they paid no heed. We gave them three years. Now that is over with. I have waited long enough.

I will try to convince you in the coming months that we have waited long enough. We owe this to Canadians. We will stop fooling ourselves that our prejudices are good. In Switzerland, they had the same problem we do. They began giving heroin to users in special centres, where doctors, nurses and social workers were in attendance to try and solve their problems. The problems of heroin users concern society as a whole.

The day heroin is made available to users, they stop stealing for it. Better yet, we help them find jobs. It is not too much to ask politicians and parliamentarians, who are supposed to be wise, to consider such solutions. This is the sort of thing I am inviting you to do.

Senator Prud'homme: I have a supplementary question. If I said to you that, without a thorough study of organized crime, it

would be difficult for us to come up with a solution, what would you say?

Senator Nolin: There is no doubt that we are going to have to come up with a solution. And the way to do that is by going after illegal drug users. This goes hand in hand with the issue of suppliers. This is another difficult area, because there will not be many witnesses willing to tell us what is going on. As I mentioned in my notes and as Ms Riley's document points out, we are going to have to examine the financial aspect. I mentioned a few figures, but this is such a large market that, if it were to cease operating overnight throughout the world, it would be tantamount to an economic disaster.

You cannot take \$400 billion out of circulation overnight without shaking up the world economy. The document addresses this. If the Senate agrees to strike a committee, we will have to examine this situation. My focus of interest is not traffickers. It is users, those who keep this illegal, underworld production line going. My interest is ultimately in those users who die. They are a danger to the Canadian social fabric. They have to supply their habit and they are prepared to do whatever it takes to achieve that end. This is the problem facing us. When Switzerland began supplying users with heroin, traffickers had to find another livelihood.

[English]

Hon. Jerahmiel S. Grafstein: Honourable senators, I am curious about an inherent contradiction between Senator Nolin's comments on this motion and Senator LeBreton's comments earlier today with respect to Bill C-82.

Liquor is a form of drug. Hash, marijuana and others are forms of drugs. One is somewhat regulated, another is tightly regulated and prescribed. Is there not an inherent contradiction between the proposition that Senator Nolin is putting forward and that of Senator LeBreton?

The object of Senator LeBreton's desire is for zero tolerance when it comes to conduct emanating from a drug, namely, alcohol. On the other hand, Senator Nolin is moving exactly in the opposite direction by saying, "I do not want to get into zero tolerance, I want to go in the other direction. I want to examine the cause, rather than the effect, of drugs."

I raise that as a philosophic point. There seems to be an inherent contradiction between the two senators who sit beside each other.

Senator Nolin: Honourable senators, Senator LeBreton is not trying to prohibit the use of alcohol. She wishes to prohibit the use of alcohol and driving. I, too, want that. There is a difference.

My proposition is to look the subject squarely in the face. We have never done that; we have never looked at drug users face to face. These people are Canadians and have fundamental rights. We need to address this problem because their problem is our problem.

• (11950)

I beg to differ with you on that point. There is no contradiction in our positions. I am sure that the technology exists to detect when a driver is impaired by either alcohol or drugs. That is another piece of the puzzle needed to solve some problems. People are speeding while under the influence of drugs. They are jeopardizing lives, just like those who drink and drive. I believe that our positions are complementary.

We used to have prohibition on alcohol. Almost 70 years ago, the government decided that it would be lucrative to remove that prohibition. I am not suggesting that the government should do that with drugs, but it should acknowledge the problem and do something about it. It is not a problem of criminality but a public health problem. We owe that to Canadians.

I owe it to my three children to look at that problem very seriously, because they will be confronted with it. We need to study it with all of our combined wisdom. It is a grave health problem.

Senator Grafstein: I appreciate the senator's response. However, I believe that alcoholism is also a grave health problem. I have been told that alcoholism is as serious an illness as drug dependency. Therefore, some may be concerned that if we focus on zero tolerance, we will lose track of the root causes of that unhappy social conduct.

I will be very interested to hear the testimony before the committee that studies the bill which Senator LeBreton introduced, because it contains a fundamental question. I have detected a growing desire in the country to move toward zero tolerance for socially undesirable conduct. Yet, Canada probably has the highest incarceration rate in the Western World, and the problems accelerate. We have a serious conflict of social policies. I hope that your study, and the reference of Senator LeBreton's bill to the committee, will help us decide which way to go.

Senator Nolin: We already have zero tolerance in the matter of illicit drugs, but we still have a big drug problem in Canada. We are spending billions of dollars trying to cure that problem, yet we are not succeeding. Perhaps we do not understand the problem. Zero tolerance is fine if you have the proper techniques to enforce it. We already have all the penalties in the Criminal Code, but we are not curing the problem.

We need to redefine the problem. We are asking questions which other jurisdictions started to answer 25 years ago. Perhaps we should look at the answers they have found.

On motion of Senator Carstairs, for Senator Kenny, debate adjourned.

[*Translation*]

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE INFORMATION, ARTS AND ENTERTAINMENT MEDIA—DEBATE ADJOURNED

Hon. Marie-P. Poulin, pursuant to motion of June 10, 1999, moved:

That the Senate Standing Committee on Transport and Communications be authorized to examine and report upon the information, arts and entertainment provided by the traditional and modern media to Canadians, given the changing nature of mass communications and technological innovation;

That the committee be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings; and

That the committee presents its final report no later than June 15, 2000.

[*English*]

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to have an explanation for this venture. I should like to know how much it will cost, and the parameters of it.

Senator Poulin: Honourable senators, since Senator Nolin spoke at length about his study, and since this study will not cost any money at this time, I did not think I would be called upon to give an explanation. However, I would be pleased to explain the theoretical framework.

As you probably know, the Standing Senate Committee on Transport and Communications has spent quite a bit of time looking at the evolution of new technology and the convergence of traditional and new media and its impact on four areas: human resources, national identity, the diversity of our culture, and the new strategic alliances in terms of commerce.

We have concluded that our country is ready to be well positioned in this technological revolution. The industry has asked the committee to study the quality, the quantity, the balance, and the objectivity of information that is now available to Canadians from coast to coast within this new convergence of technology. Over the summer, we will be developing the theoretical framework for the appropriate study.

On motion of Senator Kinsella, for Senator Forrestall, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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CANADA

Debates of the Senate

1st SESSION

• 36th PARLIAMENT

• VOLUME 137

• NUMBER 150

OFFICIAL REPORT
(HANSARD)

Tuesday, June 15, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, June 15, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

CANADIAN HERITAGE

VIOLENCE ON TELEVISION AND IN MOVIES

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):

Honourable senators, the history of film-making in Canada is a story of interesting achievements, accomplished in isolation against great odds. It has, in many ways, been a concurrent history of a struggle against an entertainment monopoly anchored in Hollywood. Today, voices are being raised concerning the virtual plague of Hollywood movies and TV shows in which murder and violence is the common diet.

It is very difficult to watch a film or program on television in which the value and dignity of human life is totally ignored but, rather, several killings is the scene which primes the pump or gets the show started.

It is postulated, honourable senators, that movie and TV violence begets violence in the real world. What is certain is that few accept the Cartesian view that we are born with innate ideas. Rather, the young learn, and television, together with films, are powerful instruments of learning.

At times of tragedy, such as those in Littleton, Colorado or Taber, Alberta, voices are heard that are searching for solutions. Some have suggested recently a tax on movies, games or TV programs which display violence.

I wish to propose that the Canadian film industry recognize that there now exists a niche in the film market for violence-free films. It should be the policy of the Government of Canada that film assistance is restricted to violence-free films and that the Canadian film industry be encouraged by the government to seize the opportunity and fill this niche for violence-free films.

HEALTH

EFFECTS OF GENETIC ENGINEERING

Hon. Richard H. Kroft: Honourable senators, today I wish to draw your attention to one of the most exciting yet challenging items on the human agenda for the next millennium. It may indeed be what defines coming decades, just as surely as the

20th century has been defined by the automobile, the exploitation of new forms of energy, and air and space travel.

The last part of this century has been dramatically altered by the computer and the extraordinary power it has unleashed; the power of universally accessible information and the power of infinite numbers of calculations that have permitted a revolution and understanding of both outer space and the infinitely small pieces of inner space.

The ability to see, identify, and manipulate the smallest parts of our universe has led to the subject of my remarks today; what is commonly known as genetic engineering. This term that has become part of our language seemingly overnight will change our lives and those of our children and grandchildren even more than Henry Ford and the Wright brothers changed that of our grandparents and parents.

Science is entering new frontiers that are, frankly, unbelievable. Fundamental elements of life are being changed in a way never thought of by ordinary people. In any given week, we learn of genetic engineering that enhances food production, ensures shelf life, or improves nutrition or taste appeal. Each of these stories is and will be accompanied by expressions of fear and cries for legal restraints on this new science. In the same week, we will also learn of cures for terrible diseases, giving new hope to millions present and future.

Some of these stories, such as Monday's report from London, Ontario, tread on ground seemingly beyond understanding. There, human genes are being transplanted into tobacco plants to create a vast new source of material for anti-inflammatory medication for a variety of serious diseases.

So, again, science and technology have dealt us a contradiction. Just as the industrial revolution bred child labour, just as the automobile created an enormous threat to human life, and just as atomic energy remains a conundrum, we are now faced with a new reality.

• (1410)

Science will go on. New frontiers will be opened and wonderful things will be made to happen. At the same time, we face the challenges we always have, the need to provide a legal, moral and cultural framework in which to manage the power the human genius continues to give us.

It rests with bodies such as the Senate of Canada to martial all the knowledge, judgment and balanced, collective wisdom available to assure that we continue to advance, in a balanced way, the human condition.

THE SENATE

ACCESS FOR THE DISABLED

Hon. Brenda M. Robertson: Honourable senators, I make this statement on behalf of Senator Carstairs and myself. In February and March of 1998, Senator Carstairs and I participated in a debate calling the attention of the Senate to its lack of full accessibility to Canadians with disabilities and to a means for dealing with disability issues. Other senators showed a keen interest.

Shortly following the debate, a process was begun to address the challenges facing the Senate in this regard. Honourable senators, I wish to report on the progress achieved to date and to invite all senators to contribute to the initiative on disability.

Let me review the process or the blueprint for tackling the obstacles to full participation in life at the Senate by Canadians with disabilities. The project manager for the disability initiative has been appointed and is guided by an advisor and a group of experts from the disability field. They have struck a working group of senior managers from the Senate. They are working to achieve the following goal which captured Senator Carstairs' and my initial intent, to improve accessibility to the Senate of Canada and to encourage participation in it for persons with disabilities by developing policies and practices which eliminate barriers and by taking other appropriate action.

The time-frame for the initiative reflects the complexity of the issues and the need to build initiatives into the regular planning process of the Senate. We expect to have a preliminary report completed by September to present to the Standing Committee on Internal Economy, Budgets and Administration.

It is our wish that we have a strategy and action plan in place to be able to announce it in the Senate by December 3, 1999, which is International Disability Day. By that time, we will also be well on our way to developing a guidebook for senators and a specialized training program that will make informed advocates of each of us.

When Senator Carstairs and I spoke to this issue, in 1998, we argued that we cannot afford to exclude Canadians with disabilities from life at the Senate lest we short-change them and this institution.

Honourable senators would agree that, in the final analysis, our actions must match the ideals and the principles we champion publicly. I am pleased to report progress and look forward to an interim report in the fall.

THE LATE HEWARD STIKEMAN, Q.C., O.C.

TRIBUTE

Hon. Jerahmiel S. Grafstein: Honourable senators, when the 20th century social history of Canada is written, pioneers of the professions, such as the late Heward Stikeman, will

occupy auspicious space. Last Saturday, Harry Heward Stikeman, Q.C., O.C., known as Heward Stikeman, passed away at the age of 85, at his home in Bromont, Quebec.

Heward was one of Canada's outstanding tax lawyers. He rose to that position after a long and remarkable career in the public service. In 1939, he joined the predecessor to the revenue department and served there with great distinction until 1946. During that time, he acted as government counsel before the British Exchequer Court, then Canada's final appellate body for tax matters, and before the Supreme Court of Canada. He became the outstanding specialist in income tax. While in the department he helped to prepare and shape all the Second World War budgets.

His career holds special significance to the Senate. In 1946, he considered it a leap upward in his career when he left the Department of National Revenue to become counsel to the Senate Banking Committee, mandated to investigate and recommend changes to Canadian taxation law.

That benchmark study led to the 1948 Income Tax Act. Taking his leave from public service, he joined Fraser Elliott to form a law firm called Stikeman & Elliott, specializing in tax law. A year later he was joined by George Tamaki. Led by Heward, they built their firm into a global law firm with offices across Canada, Europe and the Far East. In the process, he helped to transform not only the legal and accounting professions, but also business practices. In the early 1960s, he was joined by the Right Honourable John Turner, Q.C., P. C. the former prime minister, who served as a partner to that firm before his appointment to cabinet in 1965.

Heward was the author of numerous texts and articles on the tax system. He took special delight in editing tax reports, like the late Bora Laskin, who for years edited the *Dominion Law Reports*. He provided a signal service to the legal and accounting professions, helping to codify the burgeoning tax structure.

I first had the pleasure of meeting Heward in the mid-1960s and enjoyed a number of exchanges with him over the years. I can attest to his curious, probing, exacting and quicksilver type mind. He understood not only the arcane structure but also the social and public policy behind the tax system. On occasion, we acted as co-counsel on several exacting files, and I came to admire his ability to focus on problems and find solutions that were fair and defensible not only to the client but to the public purpose.

Heward, modest as he was, by his life's work, could lay credit to causing the legal and accounting professions to look outward to the world. In the process, the staid Canadian business leadership turned its attention outward to the globe. His work helped to reforge and refashion Canada, and its major companies as players in a leading-edge trading nation. The work of the tax system and its practitioners was too often condensed and rarely praised. This is a deficit in popular thinking. A fair tax system lies at the heart of democracy and the rule of law. For democracy

to work, acceptance of the tax system by our citizens depends on fairness and comprehension. Heward always argued for simpler, fairer tax rules. Heward fought against the Department of Revenue when it ran roughshod over simple questions of justice and equity within the tax system, as the department was bound to do time and time again.

Honourable senators, Heward's work goes on.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to some distinguished visitors in our gallery. This is a delegation from Brazil led by the Minister of Agriculture, the Honourable Francisco Turra.

On behalf of all honourable senators, I bid you welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

INTERNATIONAL DAY IN SUPPORT OF VICTIMS OF TORTURE

Hon. Lois M. Wilson: Honourable senators, June 26, 1999 is United Nations International Day in Support of Victims of Torture, a day inaugurated with a view to eradicating torture. It also serves to promote the effective functioning of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This convention entered into force on June 26, 1987, a date whose anniversary is imminent.

A refugee known to my Toronto colleagues is a victim of torture. He is caught in a Catch-22 situation. It is required that he rehabilitate himself in order to get work. He must get work in order to get landed status and bring his wife to Canada. In other words, he must pass tests to get his family admitted. He is a victim of torture trauma and is in no shape to pass these tests. It raises the question about whether such a refugee should have access to protection under the law in Canada until he is able to function well enough to work.

A 1994 study by the Canadian Mental Health Association, the Ottawa-Carleton region, revealed that professionals working with refugees suspected that 11 per cent of the clients they had seen in the previous two years were survivors of torture. Studies in other parts of the world estimate that 10 to 30 per cent of refugees have been tortured.

Some creative work under the aegis of the Canadian Mental Health Association has been done to attempt to bridge that gap. A counselling network committee to assist victims of war and torture has emerged in the Ottawa-Carleton region.

A series of training workshops entitled "Understanding the Unspoken Pain" has been held for elementary school teachers, physicians, nurses and other health care professionals. A training manual has been issued and new facilitators trained for an awareness level workshop.

I wish to call the attention of the Senate to this issue because the anniversary date is imminent. I ask all honourable senators to support the continuing development in this area of our work.

CUSTOMS AND REVENUE

CAPE BRETON AS SUGGESTED LOCATION OF NEW AGENCY

Hon. Lowell Murray: Honourable senators, over the weekend I was in Summerside, Prince Edward Island, for a testimonial dinner in honour of our former colleague Senator Orville Phillips.

Although the proceeds went to the local Progressive Conservative Association, the event was a community affair. The speakers included our former Liberal colleague Senator Lorne Bonnell who spoke at length and quite hilariously. I tell honourable senators this in order to share something of the flavour of the occasion.

• (1420)

Speakers at the dinner recognized and lauded the significant role played by Senator Phillips in bringing to reality such important projects as the Fixed Link, the Summerside Aerospace Centre and the GST Centre in that city. These two facilities were located in Summerside by the Mulroney government to try to offset the economic problems that would be caused by our decision to close Canadian Forces Base Summerside. When we had to take a major facility out of a community, we accepted the responsibility to put something back into that community. We attracted private enterprise to the Aerospace Centre and we created direct government employment at the GST Centre.

By all accounts, these investments of public and private funds have been crowned with success. I was told that the GST Centre, which we forecast in 1991 would employ 400 people, now has a payroll in the vicinity of 1,000 and counting. This proves that if you want a growth industry under the Liberals, it is tax collection.

The occasion also served to remind me of the campaign underway to locate an important federal facility in Cape Breton. As honourable senators know, the termination by the federal government of the Cape Breton Development Corporation means a loss of several thousand jobs directly and indirectly associated with the Cape Breton coalmines. The opportunity is at hand for the government to offset the dire economic and social effects of its closure decision by establishing in Cape Breton the national headquarters of the new Customs and Revenue Canada agency. When the legislation creating this agency was before Parliament, the government accepted an amendment which would allow the headquarters to be located anywhere in Canada.

No doubt there is resistance in some circles to locating this agency's headquarters away from Ottawa. There was resistance to the decision in the 1970s by a previous Liberal government to locate the Department of Veterans Affairs in Charlottetown. However, that crucial commodity — political will — carried the day. Political will was the decisive factor when the Progressive Conservative government decided that the GST Centre would be in Summerside. I can testify personally to the fact that there was plenty of resistance until the day that Prime Minister Mulroney let us know that he was heading for Summerside to make the announcement. Thus ended the argument. Will Prime Minister Chrétien now do as much for the people of Cape Breton?

[Translation]

QUEBEC

INTERPRETATION OF HISTORICAL FACTS

Hon. Marcel Prud'homme: Honourable senators, Senator Forrestall and I were appointed by Mr. Pearson to sit on a special committee on Canada's national anthem. There is a reason why people in this country do not get along with each other: What you sing in English is totally different from what is sung in the original version of *Ô Canada*, which was written on the occasion of the annual Marian Convention of the Saint-Jean-Baptiste Society in Quebec City to be sung on June 24, 1880. This, despite the fact that, on July 1, 1980, it was mistakenly said that it was the national anthem's centenary. So this is a first ambiguity among Canadians.

The second is the Canadian flag. There are few people left here who voted for the maple leaf as the Canadian flag. Senator Whelan and Senator Stewart are two of these people. We French Canadians in Quebec had always wanted a distinctive Canadian flag. We got it. Since then, those who wanted it want it less and those who did not want it wrap themselves up in it and distribute it 20 million at a time.

The controversy in this morning's newspapers goes beyond these misunderstandings. I will come back to this in the next sitting, that is, on the statement attributed to the Right Honourable Jean Chrétien, the Prime Minister.

Mr. Chrétien is a personal friend, as is Brian Mulroney. I do not turn on my friends. My friend Jean Chrétien seems to be embroiled in a huge controversy. On television this morning, it was awful. Nobody understood Mr. Chrétien's humour. All of Canada's historians are now up in arms because Jean Chrétien apparently said that it was not his fault, that he could not rewrite history and that, if he had been there when Montcalm was beaten, he would have woken him.

Those who know the Right Honourable Jean Chrétien, my friend — which may bother some people — and who were upset by what he said understood absolutely nothing. So we end up in another huge controversy. You should have heard the open-line shows this morning and even the television. A certain

Lowell Green was having fun saying that Mr. Chrétien, my friend, was a separatist.

Honourable senators, those who missed the point are creating separatists, because they understand nothing about the humour of some and the true feelings of us French Canadians from Quebec in the Senate.

[English]

ROUTINE PROCEEDINGS

PUBLIC SECTOR PENSION INVESTMENT BOARD BILL

REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, June 15, 1999

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SEVENTH REPORT

Your committee, to which was referred the Bill C-78, An Act to establish the Public Sector Pension Investment Board, to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Royal Canadian Mounted Police Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Members of Parliament Retiring Allowances Act and the Canada Post Corporation Act and to make a consequential amendment to another Act, has examined the said bill in obedience to its Order of Reference dated Thursday, June 3, 1999, and now reports the same without amendment, but with observations and two letters which are appended to this report.

Respectfully submitted,

MICHAEL KIRBY
Chairman

The Hon. the Speaker: Honourable senators, is it agreed that the appendix to the report be printed as an appendix to the Journals of the Senate of this day?

Hon. Senators: Agreed.

(For text of Appendix see today's Journals of the Senate Appendix A, p. 1749.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

SCRUTINY OF REGULATIONS

SIXTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Wilfred P. Moore, for Senator Hervieux-Payette, Joint Chair of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations, presented the following report:

Tuesday, June 15, 1999

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

SIXTH REPORT ("A" presented only for the Senate)

Your committee, which is authorized by section 19 of the Statutory Instruments Act, R.S.C. 1985, c. S-22, to review and scrutinize statutory instruments, now requests approval of funds to attend the biennial conference on delegated legislation in Sydney, Australia.

Pursuant to section 2:06 of the *Procedural Guidelines for the Financial Operations of Senate Committees*, the Committee requests that it be empowered to adjourn from place to place outside Canada.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE
Joint Chair

The Hon. the Speaker: Honourable senators, is it agreed that the report be printed as an appendix to the *Journals of the Senate* of this day?

Hon. Senators: Agreed.

(*For text of Appendix see today's Journals of the Senate, Appendix B, p. 1762.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Moore, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*Translation*]

ADJOURNMENT

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 16, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

• (1430)

INTER-PARLIAMENTARY UNION

ONE HUNDRED AND FIRST CONFERENCE HELD IN BRUSSELS, BELGIUM—REPORT OF CANADIAN GROUP TABLED

Hon. Joan Fraser: Honourable senators, I have the honour to table, in both official languages, the report of the official parliamentary delegation of the Inter-Parliamentary Union, which participated in the 101st Inter-Parliamentary Conference, held in Brussels, Belgium, from April 10-16, 1999.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Terry Stratton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on National Finance have power to sit at 5:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present 54 signatures from Canadians in Alberta who are petitioning the following:

We request the release to the public of all post-1901 Canadian Census Records 92 years after they were recorded. This would begin with 1906 census records being released immediately. The 1911 census would be released in 2003 and subsequent census records would be released after 92 years and be made available for research as part of our Canadian heritage.

QUESTION PERIOD

NATIONAL REVENUE

INCREASE IN FOREIGN PROPERTY COMPONENT OF DEFERRED INCOME PLANS—GOVERNMENT RESPONSE TO SENATE MOTION

Hon. Michael A. Meighen: Honourable senators, my question is to the Leader of the Government in the Senate. On Tuesday last, honourable senators in this chamber gave bipartisan support to my motion, seconded by Senator Kirby, urging the government to increase the foreign property component of deferred income plans from 20 per cent to 30 per cent over a five-year period.

My question is the following: Did you, minister, have the opportunity to convey the wishes of this chamber to the members of the government and, if so, to whom, and what was the response?

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators. I would remind Honourable Senator Meighen that the motion was passed on division. However, I did bring the motion to the attention of both the Prime Minister and the Minister of Finance. With respect to this motion, there has not been a specific response, as yet.

Senator Meighen: Honourable senators, as the Leader of the Government knows, the decision of this chamber, albeit on division, has received extensive and favourable national media coverage. No doubt the Leader of the Government in the Senate noted that the British Columbia papers have written perhaps the most extensive articles, and favourably so, since last Tuesday. What would be the minister's estimate of a possible date when we could look forward to a change in the limit?

Senator Graham: If I could estimate that, I probably would be the Minister of Finance, and I am sure that no one in the country would want that to happen.

Honourable senators are aware, as Senator Meighen has indicated, that this has been a matter of public discussion for some time. If an announcement is to be made on this subject, the Minister of Finance will be the one to determine the most appropriate time. In the meantime, it is and will continue to be a matter of discussion in the Finance Department and in the financial sector.

Hon. J. Michael Forrestall: Honourable senators, let me assure the Leader of the Government that I would welcome such an appointment. Having trained under Senator MacEachen, when you are finished with Cape Breton you can start in on the Eastern Shore.

THE CABINET

POSSIBLE MEETING ON FRIDAY, JUNE 11, 1999

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. I know it would be asking the minister to break cabinet confidence were I to ask him what took place, or anything about what might have taken place at a cabinet meeting. However, would the minister tell us whether or not there was a cabinet meeting at any time on Friday last and, if so, at what time?

Hon. B. Alasdair Graham (Leader of the Government): Honourable senators, I would not want to break any confidence with respect to a cabinet meeting that might have been held on Friday last. However, I can say categorically that I was not present and I would have been notified if such a meeting had been held.

FINANCE

PRUDENCE OF BUDGET ALLOCATIONS—APPLICATION OF SURPLUS—GOVERNMENT POSITION

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It is with respect to this year's budget and the anticipated surplus. The estimate by economists is that the surplus will range from \$3 billion to \$15 billion. Some economists, however, are apparently growing tired of these surpluses being spent on other things.

The Royal Bank's economist John McCallum calls it prudence by stealth. Mr. McCallum has said that Mr. Martin and his officials have what might be called a reverse credibility problem. Mr. McCallum was echoing the views of several economists, who have been saying that they support using prudent assumptions in the budget on what might happen to interest rates or economic growth, but not as a cover to have money for last-minute spending programs.

Would the Leader of the Government in the Senate care to respond?

Hon. B. Alasdair Graham (Leader of the Government): Yes, honourable senators. The government is not using prudence by stealth. It is using prudence intelligently. Had the previous government used prudence intelligently, we might not have had the deficit we inherited. I will not mention here today the deficit numbers that we were faced with when we took office in 1993. This methodology of using prudent assumptions for fiscal planning purposes was advocated by the private sector, including most banks.

Senator Stratton: Honourable senators, I did not receive a complete answer to my question, which also alluded to the fact that people and economists are getting tired of the surplus, ranging from \$9 billion to \$15 billion, being used for purposes other than tax reductions or for paying down the debt. Instead, it is being spent without any attempt by this government to live up to the promise that it made during its first term in office that one-half of any fiscal dividend would go toward new spending, and the other half would be divided between debt and tax reduction.

Senator Graham: Honourable senators, the government is living up to that commitment.

Senator Stratton: Could the leader provide details regarding how the government is living up to that promise?

• (1440)

Senator Graham: Honourable senators, I have already done so, but I will refer to previous issues of the *Debates of the Senate* and bring them to the attention of my honourable friend.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on May 4, 1999 by the Honourable Senator Donald H. Oliver regarding the loss of disposable income as a result of taxation; and a response to a question raised in the Senate on May 13, 1999 by the Honourable Senator Ethel Cochrane regarding the Millennium Scholarship Foundation, progress of negotiations with the provinces.

NATIONAL REVENUE

LOSS OF DISPOSABLE INCOME AS A RESULT OF TAXATION—GOVERNMENT POSITION

(Response to question raised by Hon. Donald H. Oliver on May 4, 1999)

What is really important is how much tax such a family pays. The fact of the matter is that this family does not pay any net tax; in fact, they receive \$2,083 in net benefits from the government (including Canada Child Tax Benefit and the GST credit).

As family income rises, of course, these benefits are reduced.

Given limited fiscal resources, this is necessary to target government assistance to those in greatest need.

Thus it can be expected that some families would lose most of their benefits as their incomes rise appreciably.

The number of families in the particular circumstances described in the question is however quite small.

This government is committed to do better and to reduce taxes further as fiscal resources permit.

The government has taken measures in the last two budgets to provide tax relief to all Canadians.

Together, the two budgets provide for tax relief totalling \$3.9 billion in 1999-2000, \$6 billion in 2000-2001 and \$6.6 billion in 2001-2002, totalling \$16.5 billion over three years.

These measures have helped to start reducing marginal tax rates throughout Canada.

The government will provide additional tax relief in each future budget in line with available resources.

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION—PROGRESS IN NEGOTIATIONS WITH PROVINCES—REQUEST FOR UPDATE

(Response to question raised by Hon. Ethel Cochrane on May 13, 1999)

The Canada Millennium Scholarships Fund is about helping Canadians benefit from educational opportunities and manage their student debt.

Announced in the 1998 Budget, an initial endowment of \$2.5 billion will provide scholarships to some 100,000 students annually over ten years. Although scholarships will begin to be awarded beginning in the year 2000, Canadians still have access to existing provincial programs and to Canada Student Loans Program (CSLP) which assists them to pursue education and training at the post-secondary level.

The Canada Millennium Scholarship Foundation was established in June 1998 as an independent body to manage the \$2.5 billion endowment and to award scholarships. The Foundation is also responsible for securing agreements for the delivery of the scholarships in each province and territory.

The Foundation — not the government — will decide how best to design and deliver the Canada Millennium Scholarships within its mandate. The Foundation has set itself an objective to award scholarships in a manner that complements existing provincial student financial assistance programs and avoids duplication, to the extent possible.

We are pleased that the Alberta, Ontario, Manitoba, Saskatchewan, and Nova Scotia Governments have signed agreements with the Canada Millennium Scholarship Foundation and we are told that other agreements will be secured over the next few weeks.

With respect to Quebec, clearly we would like to see an agreement.

Our first priority is making sure that students in Quebec, like those in all other provinces, benefit from this initiative and we hope that this matter will soon be resolved for Quebec. That is why the Government of Canada appointed a facilitator, Mr. Robert Bourgeois, to help resolve this matter.

Mr. Bourgeois and Mme Champoux-Lesage, the Deputy Minister of Education of Quebec, are now discussing the issues.

As the government has indicated before, the legislation guiding the scholarships is sufficiently flexible to allow an agreement that meets the demands of the Quebec government, as expressed in the Gautrin motion. We look forward to further developments and we are confident that an agreement can be reached.

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the pages from the House of Commons who are here on the exchange program this week.

Matthew Archibald is studying at the University of Ottawa in the Faculty of Administration. His major is public policy. Matthew is from Sydney, Nova Scotia, or should I say Cape Breton?

[Translation]

Annick Doucet, from Petit-Rocher in New Brunswick, is a student at the Faculty of Social Sciences at the University of Ottawa, and she is majoring in political science.

Matthew and Annick, I welcome you to the Senate. We hope that your week with us will be productive and interesting.

[English]

ORDERS OF THE DAY

APPROPRIATION BILL NO. 2, 1999-2000

THIRD READING

Hon. Anne C. Cools moved the third reading of Bill C-86, for granting to Her Majesty certain sums of money for the public service of Canada for the financial years ending March 31, 2000 and March 31, 2001.

Motion agreed to and bill read third time and passed.

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 1999

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Butts, for the second reading of Bill C-84, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain Acts that have ceased to have effect.

The Hon. the Speaker: Honourable senators, if no honourable senator wishes to speak on this item, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Milne, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Lavoie-Roux, seconded by the Honourable Senator Butts, for the second reading of Bill S-29, to amend the Criminal Code (Protection of Patients and Health Care Providers).—(Honourable Senator Cools)

Hon. Anne C. Cools: Honourable senators, I had taken the adjournment last week with the intention of finding time to prepare a full-bodied speech on this very difficult and complex matter, which in the long run is the issue of life and the determination of when lives are ended, justly or unjustly.

I believe it is well known in this chamber that I am an opponent of euthanasia, but I am aware that there are enormous issues attending the concept of palliative care.

Senator Lavoie-Roux is eager to move this bill forward to committee, and I have not had the time, because of other commitments, to carry out the depth of research that I would like to do on this item. However, in agreeing to let this bill go forward to committee, I wish to reserve the opportunity at committee stage to raise the issues about which I have deep concern.

The Hon. the Speaker: Does any other honourable senator wish to speak? If not, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Lavoie-Roux, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

ROYAL ASSENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-26, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(Honourable Senator Poulin)

Hon. Sharon Carstairs (Deputy Leader of the Government): Honourable senators, there is some disagreement with the general principle of this bill on both sides of the chamber, but I am not one of those who is in disagreement. I happen to agree with Senator Lynch-Staunton and the process he wishes to put into place for Royal Assent. However, I might be in the minority of my own caucus, and certain senators on the other side have indicated that they, too, do not wish to change a process that we have had in place virtually since Confederation.

Honourable senators, the best place in which to continue this debate would be in committee. Therefore, after the bill is read for the second time, I will move that it be referred to committee.

On motion of Senator Prud'homme, debate adjourned.

[*Translation*]

PRIVILEGES, STANDING RULES AND ORDERS

NINTH REPORT OF COMMITTEE REVIEWED— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Ferretti Barth, for the adoption of the ninth report of the Standing Committee on Privileges, Standing Rules and Orders, (*independent senators*), presented in the Senate on March 10, 1999.

Hon. Jean-Maurice Simard: Honourable senators, I read with great interest the report of the Standing Committee on Privileges, Standing Rules and Orders, concerning independent senators. I congratulate the chair of the committee and I want to say sincerely that I support this report.

On motion of Senator Simard, for Senator Kinsella, debate adjourned.

[*English*]

NORTH ATLANTIC TREATY ORGANIZATION

INVOLVEMENT IN YUGOSLAVIA—RELATIONSHIP TO INTERNATIONAL LAW—INQUIRY—DEBATE SUSPENDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the question of international law: Canada and the NATO action in the Federal Republic of Yugoslavia.—(Honourable Senator Roche)

Hon. Douglas Roche: Honourable senators, lessons that NATO, the United Nations and Canada should learn from the Kosovo war concerning the future of international law are the theme of this address. The Kosovo war was fundamentally about the rule of law. How will international law be imposed in the years ahead: by the militarily powerful determining what the law will be, or by a collective world effort reposing the seat of law in the United Nations system?

It is in no light vein that I stand to oppose Senator Grafstein, whose high respect in the Senate has been eminently earned. Senator Grafstein has argued that not only was NATO's bombing of Serbia and Kosovo legal but also that it was necessary because of the failure of the United Nations to act against the brutal aggression against the Kosovars committed by the forces of

Slobodan Milosevic. Senator Grafstein is in accord with the Government of Canada's position, as articulated by the Leader of the Government in the Senate, who said that NATO had to intervene because:

The alternative would have been to watch passively as an entire population was terrorized and expelled from its ancestral land.

I am in profound disagreement with this viewpoint. I hold that NATO did not have the right to take the law into its own hands. Moreover, NATO's continued bombing for 78 days caused immense suffering and damage, worsened the situation for the Kosovars, undermined the United Nations and destabilized international relations.

I do not feel alone in opposing the weight of government thinking on this matter. Former president of the United States Jimmy Carter criticized the NATO campaign, stating:

The decision to attack the entire nation has been counterproductive, and our destruction of civilian life has...become senseless and excessively brutal.

Former leader of the Soviet Union, Mikhail Gorbachev, said that the possibilities for a political solution were not used and NATO's disregarding the views of countries like Russia, China and India has placed the world "in a very, very difficult situation." Pope John Paul II deplored the human suffering caused by the bombing. Here in Canada, James Bissett, former Canadian Ambassador to Yugoslavia, said:

NATO's unprovoked attack is a blatant violation of every precept of international law.

Historian Michael Bliss said that NATO's action was "ill-considered and reckless."

Honourable senators, let us consider for a moment what actually happened. Using 700 aircraft and 20 ships, NATO flew nearly 35,000 sorties, dropping 20,000 bombs on 600 cities, towns and villages. There were 13,000 civilian casualties, including 2,500 dead. Utilities, roads, bridges, hospitals, clinics and schools were destroyed along with military targets. There has been no spring planting and, thus, there will be no autumn harvest. Countless wells, which are the principle water source, have been poisoned with human bodies, dead animals, and toxic substances such as paint and gasoline. The NATO bombardment, which cost NATO countries about \$100 million a day, has set much of Yugoslavia back into a pre-industrial state and the cost of rebuilding the demolished infrastructure will be between \$50 billion and \$150 billion.

Western media downplayed the fact that the negotiations between the U.S. envoys and Milosevic were on the verge of an agreement before the bombing. The Serb Parliament was ready to accept the withdrawal of the bulk of Serb forces from Kosovo and permit the entry into Kosovo of 1,800 unarmed international

inspectors, and would allow overflights by NATO planes. NATO threatened air strikes to force a peace agreement to be monitored exclusively by NATO's ground troops. The negotiations floundered on NATO's threat to bomb. Once NATO had issued this threat, it felt compelled to follow through. Thus, when Milosevic rebelled, NATO — without a legal mandate — started bombing. NATO persisted in the bombing because the credibility of NATO itself had become an issue.

Why was the Secretary General of the UN not immediately dispatched to personally conduct negotiations on behalf of the entire Security Council? The answer to that question, which historians will surely probe, is that the United States, which proudly proclaims itself as what it calls the "indispensable nation," decided that it and its NATO partners would force a solution.

The consequences of the imposition of force by the nuclear-armed western military alliance have been startling. The military action has virtually halted Russian-American consultations on nuclear disarmament, buried the START II Treaty, and has bred a dangerous trend pushing some countries out of the non-proliferation regime. China, whose Belgrade embassy was bombed, has excoriated the U.S. and NATO for bullying tactics. NATO should learn that humiliating the Russians and the Chinese is no way to build world peace.

Only a decade after the end of the Cold War, the hopes for a cooperative global security system have been dashed on the rocks of power. The trust engendered during the early post-Cold War years is now shattered. New arms races are underway.

Honourable senators, it has been said that NATO action was a "just war." Senator Grafstein cited Hugo Grotius, the father of international law, to advance this idea. However, two of the requirements for a "just war" are limitation and proportionality. The damage must be limited to combatants and no greater than the securing of a military objective. As we can see, such rules were formulated before the technological development of modern warfare. Killing and damage, as Kosovo showed, are now indiscriminate. The phrase "collateral damage" had military doublespeak, covering up the killing of innocent people.

• (1500)

It was said that the bombing was to stop the ethnic cleansing of the Kosovars. When the bombing started, 45,000 Kosovar refugees fled. After the strikes began, the number of refugees swelled to 855,000. Bombing worsened their situation.

To say that the Kosovar war was not just nor justifiable in the political circumstances does not mean that I am closing my eyes to the horrors for which Milosevic now stands indicted before the special Yugoslav tribunal. Of course something had to be done. However, it is the UN Security Council, not NATO, which has the primary responsibility for the maintenance of international peace and security.

When nations signed the UN Charter, they accepted the obligation as set out in Article 2.4, to refrain from the threat or use of force, and under Article 42, to use force to stop acts of aggression only under a mandate of the Security Council.

The UN Charter is the modern embodiment of the international law that has been built up through previous centuries. We lost sight of that basic fact yesterday. To downgrade the UN Charter is to close one's eyes to the structural role played by the UN in the development of international law which has at last produced an agreement on an international criminal court. Even NATO's own Charter says that NATO's actions must follow the UN Charter.

The Security Council did in fact adopt three resolutions on Kosovo: on March 31, 1998, September 23, 1998, and October 24, 1998. It is a myth for the proponents of the war to keep saying that the UN was paralyzed. The Russians and Chinese were certainly opposed to NATO troops being the exclusive intervenors in Kosovo and would have likely vetoed a resolution authorizing NATO alone to intervene, but where is the evidence that they would have vetoed an international force? In fact, the latest resolution, number 1244, dated June 10, 1999, specifies that the deployment of a force in Kosovo will now be "under United Nations' auspices." Moreover, the interim administration for Kosovo is "to be decided by the Security Council."

NATO troops are a leading element of the international force, to be sure, but the overall responsibility for keeping the peace in Kosovo as well as coordinating humanitarian relief foundations has been handed back to the UN. Thank God for the United Nations. It is a tragic irony that, after all the NATO blundering, we are back to where we were before the bombing, that is, with the UN Security Council now determining how to maintain international peace and security. Moreover, the potential sovereignty for Kosovo, the stumbling block of the Rambouillet agreement, has now been removed.

It is only through the United Nations that the whole international community can jointly pursue such basic Charter values as democracy, pluralism, human rights and the rule of law. As the Secretary-General of the UN, Kofi Annan, stated a few days ago:

Unless the Security Council is restored to its preeminent position as the sole source of legitimacy on the use of force, we are on a dangerous path to anarchy.

Honourable senators, the Security Council must unite around the aim of confronting massive human rights violations and crimes against humanity. In a world where globalization has limited the ability of states to control their economies, regulate their financial policies and isolate themselves from environmental damage and human migration, the last right of states cannot and must not be the right to enslave, persecute or torture their own citizens. States must find common ground in upholding the principles of the UN Charter and also find unity in defence of our common humanity — a double challenge.

Since the end of the Cold War, the world has witnessed important instances in which the Security Council did rise to the challenge and legitimized both peacekeeping operations and the use of force where they were just and necessary. Central America and the reversal of the Iraqi aggression against Kuwait are prime examples of the Security Council playing the role envisioned for it by its founders. The failures of the Security Council should be measured against its successes to dispel this spurious charge that it cannot keep the peace.

Honourable senators, finally the Kosovo crisis of 1999 has exposed the contradictions in Canadian foreign policy. For a long time, Canada has tried to balance its adherence to the United Nations system and its allegiance to NATO. When the United Nations was trying to rid the world of nuclear weapons and NATO said they were essential, Canada tried to accommodate both viewpoints. When NATO expanded into Eastern Europe at the expense of the development of the pan-European body, the Organization of Security and Cooperation in Europe, Canada went along.

When the United States and the United Kingdom began, in 1998, protracted bombing of Iraq without any mandate from the UN Security Council, Canada acceded. The war, opened up by NATO's bombing of Serbia and Kosovo, a direct violation of the UN Charter as well as NATO's own Charter, has brought the fissures between western military might and the global strategies of the United Nations into the open.

Canada is still trying to balance its adherence to both the UN and NATO. Increasingly, this is becoming an impossible task as the differences between each become irreconcilable. The UN wants peace through peacemaking techniques. NATO wants peace through military dominance. Canada is caught in a dilemma. Its fundamental values lie with the United Nations as the guarantor of international peace and security. Its own protection during the Cold War lay with the western military alliance that would come to Canada's defence if attacked. As long as there was a reasonable compatibility between the two, Canada could absorb the clashing of the two systems.

In choosing to not only support but participate in NATO's bombing of Serbia and Kosovo, Canada for the moment put NATO above the UN. Of course, the other NATO members did the same thing. They all subverted international law by war.

The pragmatics of attempting to stop the ethnic cleansing and suffering by the Kosovars at the hands of Serbs won out over the principle that only the UN Security Council has the right to take military action against an aggressor. The planes that Canada sent to bomb Serbia and Kosovo illustrate the skewing of Canada's priorities. Canada sent the planes to show it was an active participant in the NATO action. However, their need, relative to the overwhelming U.S. strength, was marginal. Canada's effort to resolve the Kosovo crisis would have been better served by using resources to strengthen political and diplomatic endeavours than to contribute forces to a UN-approved international force.

Honourable senators, I see that my time has expired but I am on my last page.

The Hon. the Speaker: Is leave granted?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I suggest that we grant leave but I think there may be questions afterwards. Can we have agreement to hear Senator Gauthier now on Item No. 34 on the Order Paper, and then return to this order, whereupon we would grant the extension of time?

The Hon. the Speaker: Is it agreed, honourable senators, to suspend this particular debate to hear from Senator Gauthier on Item No. 34, then to return to this order and the speech of Senator Roche, and that leave be granted to extend the time then?

Hon. Senators: Agreed.

Hon. Marcel Prud'homme: Honourable senators, mention was made of questions and answers. May we understand clearly what is being proposed?

The Hon. the Speaker: That is agreed.

[Translation]

That is so, anyway, according to the rules, comments and questions.

Debate suspended.

OFFICIAL LANGUAGES ACT

PROGRESSIVE DETERIORATION OF FRENCH SERVICES AVAILABLE TO FRANCOPHONES OUTSIDE OF QUEBEC INQUIRY—DEBATE CONTINUED

Leave having been given to proceed to Order No. 34:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Simard calling the attention of the Senate to the current situation with regard to the application of the *Official Languages Act*, its progressive deterioration, the abdication of responsibility by a succession of governments over the past ten years and the loss of access to services in French for Francophones outside of Quebec.

Hon. Jean-Robert Gauthier: Honourable senators, first of all, I wish to thank the Honourable Jean-Maurice Simard for having drawn the Senate's attention to a very important matter, namely the situation currently faced by francophone or anglophone minorities in Canada.

I am going to speak about the education and training of the young and the not so young living outside of Quebec. For 20 to 25 years, they have been working very hard to get provincial governments to provide satisfactory elementary and secondary

schools. As you know, this issue was resolved by section 23 of the 1982 Canadian Charter of Rights and Freedoms.

This section stipulates that Canadian citizens whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, and I quote:

...have the right to have their children receive primary and secondary school instruction in that language in that province.

The provinces took a long time to comply with this provision. It took the Supreme Court of Canada and help from the federal government, before francophone communities managed to obtain justice and to have the obligation to comply with section 23, a strict minimum, understood. In defining a context in which to interpret section 23, the Supreme Court stressed the important link between language and culture and confirmed the role of the provision in maintaining both official languages and cultures throughout Canada and promoting their growth by giving minority language parents the right to educate their children in their language.

With this interpretation, the Supreme Court gave section 23 a remedial nature in order to counteract the progressive assimilation of the other official language minorities. One aspect of this remedial nature lies in the requirement to allow the parents and communities in question to administer and control the schools.

If we look at school administration nationally, we realize that, little by little, over a period of 15 to 17 years, the provinces eventually handed over some control of schools to their linguistic minority.

In the case of British Columbia, although the School Act, authorized the creation of a francophone school board, only one has been created up to now. In theory, school administration is a possibility for francophones but, in practice, it is very limited.

As I mentioned, francophone communities must be able to administer their schools, and the boards must be able to count on not only qualified but sufficient manpower.

For this speech, I tried to obtain information from various resource persons, and my research revealed an astonishing paradox: On the one hand, francophone communities receive little information about the life of their community but, on the other, these same communities claims greater resources without the backing of specific and verifiable information. They lack credible statistics.

In this context, it is difficult to prove our claims to the authorities involved. This situation is not new. In his report to the Department of Canadian Heritage, to the Secretary of State, to the Secretariat of the Treasury Board and to the Privy Council Office, Donald Savoie raises this thorny issue, contending that Statistics Canada, an agency that has the capacity to carry out such socio-economic studies, lacks the mandate to do so.

For their part, the various organizations devoted to defending the rights of francophones outside of Quebec obviously have neither the financial resources nor the infrastructure to conduct such studies or research.

Mr. Savoie, a professor at the University of Moncton, reached the following conclusion:

It is vital that all departments and organizations have accurate statistics, whether for policy development or the delivery of quality service. Without access to relevant data, departments will not be able to define viable policies and programs to further the development of francophone communities outside of Quebec.

My own 11 years of experience with the Ontario school system here in Ottawa, from 1960 to 1972, brought home to me the impact that an inadequate infrastructure can have on a community. Statistics on the number of students and teachers were not available either.

A study published in 1966 by the Ontario Institute for Studies in Education concluded that only 14 per cent of Franco-Ontarians continued their education past Grade 10, with 86 per cent of them abandoning their studies because of the lack of publicly funded French-language schools.

This high drop-out rate could not be explained away as francophones' lack of aptitude for higher education, or an entire community's lack of intellectual wherewithal. And this was borne out when, in 1969, the Ontario government of John Robarts made funds available to establish French-language secondary schools in Ontario. The situation immediately improved. In 1969, there were 1,700 students in private French-language secondary schools, in Ottawa. Less than three years later, there were 7,200 students in seven public French-language secondary schools in the national capital.

Let us now take a look at the present situation, using the 500,000 French-Canadians in my province as an example. How is it possible, in such a context, to anticipate future needs for francophone teaching staff in Ontario? By referring to the various retirement figures available, we can simply conclude that there will shortly be such a need.

Indeed, close to 25 per cent of the total teaching staff will reach retirement age within the next four years. Worse still is the fact that we are currently experiencing a shortage of teachers for certain subjects, including French as a second language.

• (1520)

In the specific context of the teaching of French as a second language, it is estimated that 3,700 teachers will retire over the next 10 years. However, fewer than 450 students seem interested in taking over from them by registering in Ontario's education faculties.

It is therefore safe to say that the demand for teachers will be significant in the near future, both for anglophone and francophone teachers.

But what about the offer? This is where we have a problem. Generally speaking, the number of students in education has never been so low. In Ontario, registration has been constantly declining, from 20,000 in 1990 down to 8,000 in 1997.

Also in Ontario, it is interesting to note that the number of students in instructional units has been relatively stable since the early 1990s. The number of francophone students at the elementary and secondary levels has remained around 95,000. It goes without saying that the number of anglophone students is much higher.

The student base definitely seems to be there, but this relative stability does not seem to have any impact on the training of francophones to become teachers. In other words, we do not have enough people to take over from our teachers and educators. In a context in which our young people are somewhat at a loss over their employment prospects and the course of their life in general, how can we explain the low attraction of a profession in which the demand, as far as staff is concerned, far outweighs the supply? Unfortunately, I have no answer, but I know that a lack of qualified personnel to take over threatens the very vitality of our community. Access to education in one's mother tongue is essential.

This situation is especially distressing, because assimilation seems to be making ever greater inroads among the Franco-Ontarian population. A series of articles appearing recently in *The Ottawa Citizen*, and reprinted in part by *La Presse* of Montreal, showed that fewer and fewer Ontarians indicated that French was their mother tongue or considered French to be the language in use at home.

With this sombre portrait, it becomes increasingly clear that the federal government, the main force behind the application of and respect for Canada's linguistic duality, must examine this question.

The interest for the federal government in promoting and respecting minority linguistic communities has been well established. More than ever, the government is showing its will to act. Before spending blindly, the government ordered in-depth studies by experts in order to evaluate the shortcomings and failures of the current system.

On the basis of the conclusion of these various reports — I am thinking of the Fontaine and the Savoie reports, in particular — the federal government is now in a position to take specific action. The first was to inject an additional \$70 million in direct aid into the communities, bringing the total invested to \$250 million. Again today, I was reading that some \$8 million had been given to the Department of Human Resources Development over three years, I think, to promote computer studies.

Other measures were announced, but I will wrap up my remarks by mentioning that the federal government has now recognized the negative impact the lack of socio-economic data has on minority language communities.

A task force, chaired by Michael O'Keefe of the Department of Canadian Heritage, was formed in order to better coordinate enforcement of sections 41 and 42 of the Official Languages Act. Composed of officials from various departments, this committee is responsible for ensuring that interdepartmental research into official language services is effectively coordinated. Having looked into this myself on a small scale, I was struck by the lack of coordination between federal departments with respect to the services they are required to provide to official language minorities.

Statistics Canada is a member of this committee, which will have to find a solution so that francophone communities are finally provided with relevant socio-economic data.

We still do not know whether francophone communities outside of Quebec will take part in the work of this interdepartmental committee, or whether it is just an informal exercise among officials. We might be told that this should be left to the Department of Canadian Heritage, even though we feel that it is the responsibility of the Department of Human Resources Development and of the Department of Industry.

In Nova Scotia, \$60 million was set aside for a joint federal-provincial program to help install computer systems in schools. To my knowledge, francophones were not consulted and nothing has been planned for French schools. When the Fédération des communautés francophones acadiennes raised the matter with the Department of Industry, they were told that it was not its problem, but that of the Department of Canadian Heritage. So there is a lack of coordination. This is not a case of ill will, but simply of nobody having taken the matter in hand and wanting to help improve the prospects of francophones outside of Quebec.

I hope that this new committee, which will coordinate research projects, will find the necessary funds for programs that will be more accessible to francophone communities.

Montfort Hospital was in the limelight for several weeks. The issue is now before the courts. Why? It is to try to make people understand that we are concerned about our aging population and by the inadequate access to health-care institutions, to the management of these institutions by our people for our people. No more, but no less. I would ask that, in the fall, all of us together — and I will give notice of an inquiry to that effect — discuss the overall situation in our country with regard to health, which is now one of the most controversial issues. Education was for a number of years our community's main concern. Now, it is health. They want to deprive us of Montfort Hospital, the only French-language medical training institution outside of Quebec. And that, honourable senators, is important. We either believe in it or we do not. If francophone minorities, and the anglophone minority in Quebec, are abandoned by the majority, we will not

need the PQ and the federalists to divide the country, it will just happen.

Honourable senators, we must look after the health and education of these young francophones so that they can, from province to province, have access to education programs, post-secondary programs and health-care services in their language.

On motion of Senator Kinsella, for Senator Rivest, debate adjourned.

The Hon. the Speaker: I thank the honourable senators for having allowed Senator Gauthier to speak today. We are aware of his health, and it was a courtesy we owed to him.

[English]

NORTH ATLANTIC TREATY ORGANIZATION

INVOLVEMENT IN YUGOSLAVIA—RELATIONSHIP TO INTERNATIONAL LAW—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Grafstein calling the attention of the Senate to the question of international law: Canada and the NATO action in the Federal Republic of Yugoslavia.—(Honourable Senator Roche)

Hon. Douglas Roche: Honourable senators will be glad to know that I will not repeat all of the comments that I made before Senator Gauthier's intervention.

My final point is that Canada's effort to resolve the Kosovo crisis would have been better served by using resources to strengthen political and diplomatic endeavours and then contributing forces to a UN-approved international force. This would have underscored Canada's commitment to international law, but it would have meant stepping outside of NATO's action. Canada is not ready to leave NATO, but Canada wants UN solutions. Therefore, this country continues to try to balance both sets of obligations.

It is becoming clearer that remaining in a nuclear-armed western military alliance is undermining Canada's ability and desires to express our yearning for peace through the United Nations system. If, by remaining in NATO, Canada can successfully work with allies to eliminate NATO's reliance on nuclear weapons and ensure that NATO works under, not above, the UN, the allegiance will be worthwhile. However, it will take far more determination than has yet been seen on the part of the Canadian government to achieve these goals.

As long as NATO remains imperious, the demand of thinking Canadians, concerned about the requirements for a truly global security system, for Canada to leave NATO will grow.

Hon. John B. Stewart: Will Senator Roche help me by answering a few questions?

Senator Roche referred to the Security Council's resolutions on Yugoslavia. He implied that the Security Council was prepared to authorize whatever measures, including force, were necessary to enforce those resolutions.

Would the honourable senator state his views on why members of NATO concluded that they could not rely on the Security Council to undertake whatever intervention would be required to persuade Yugoslavia to conform to the security resolutions, the ones to which he has already referred?

As well, will he give us his explanation of why the United States government decided, along with its NATO partners, to intervene as they did?

Senator Roche: I thank the Honourable Senator Stewart for his questions. They are rather linked.

While the negotiations were concluding, at least in their final stages, the U.S. envoy conducting the negotiations on NATO's behalf was authorized to state that NATO would start bombing unless the Milosevic regime would accept the Rambouillet agreement, and specifically that NATO ground troops would be exclusively permitted to monitor the situation in Kosovo. Milosevic rebelled at that, and there was much to and fro occurring. When NATO, having threatened to bomb, was still unable to secure the agreement under NATO's terms, it then decided that it had to follow through with its threat. As I mentioned earlier, the first few days of bombing not having achieved the desired and intended result of bringing Milosevic immediately to his knees, NATO concluded that it had to continue bombing, among other reasons, to preserve its own credibility.

With respect to the United States' decision to intervene, it is fairly clear, as Václav Havel mentioned in his joint Senate and House of Commons parliamentary address, that there was an ethical dimension to this war unlike any other. This war was being fought not for aggrandizement of territory or resources but for a new situation in international relations — the protection of the human rights of people who live within a sovereign state. Under Article 2.7 of the UN Charter, this had previously been considered off limits. A nation state cannot intervene in the domestic problems of a government, and this has been a well-established principle.

However, that principle is now being overtaken by the ascension of the recognition of human rights — the universality and indivisibility of human rights and their inherent quality in every human being. We have entered a new stage in international politics in which the rights of individuals are now being considered to be higher than the protection of the sovereign state. This dilemma faces the entire international community, not least the United Nations. Thus, the United States decided, as the principal driving force within NATO, that it would launch its attack.

If there were other reasons that the U.S. had for maintaining a military solution to the Kosovo dilemma, that is not for me to say. I will not attempt to read the mind of the U.S. administration. Many commentators have made such an attempt, but I will not use this forum to go beyond what I said above.

It is clear that the United States has stated, in very formal statements by Ms Albright, and repeated by the President, that it considers itself an indispensable nation, and that it would have to be the chief arbiter and negotiator of problems pertaining to world peace. This, of course, is directly connected to the United States' diminishment of the United Nations, and not only through its failure to pay its dues, which is a technical manifestation. Forces within the U.S. Congress are inimical to the multilateral solutions for which the United Nations stands. The U.S. administration is listening to those voices today.

Senator Stewart: I wish to ask a supplementary question, which to some extent is a repetition of my first question. I did not hear words that seemed to me to answer the question.

• (1540)

I asked for Senator Roche's explanation as to why the members of NATO concluded that they could not rely on the UN Security Council to take the necessary steps. Senator Roche has given us his explanation as to why NATO decided to act as it did. Why was it that NATO came to the conclusion that the Security Council would not act?

Senator Roche: I think the answer to that, honourable senators, is that there was an assumption, and perhaps there were even discussions *in camera* that led the United States to believe that Russia and China would have vetoed a resolution calling exclusively for NATO ground troops to monitor a political solution.

NATO was determined that it was going to run the show in Kosovo. I say parenthetically that this little imbroglio we are now witnessing with Russia occupying the airport first is but a recognition that Russia is determined, as it was before, that this would not be an exclusively NATO show, that there would be an international force and it would play a responsible role within an international force.

Hon. Marcel Prud'homme: Honourable senators, NATO has spent billions of dollars for over 50 years to anticipate any situation. How could NATO not be ready for everything? How could they not know that the Russians would move in first?

Second, how can those who believe in sanity in world affairs believe that we will have sanity by humiliating Russia? That country is going through great difficulty, and for some to say, "Let us crush them" is not practical.

Third, I applaud the arrival of Russian forces in advance of NATO. Would the honourable senator comment on my assumption that as NATO and the Russians are both present in this area, this will force the situation to be resolved?

Senator Roche: I thank the honourable senator for that question. On the first point, in regard to NATO being able to predict this outcome, General Clark, the NATO commander in the field, said that it was not a military problem, that he could have got to the area first, but rather what he described as a political problem. He was clearly throwing the ball back to his political masters.

We are now seeing some of the difficulties inside the changing Russian leadership through this question, which is connected to the United States' reaction. It may have overplayed its hand a bit and thus is taking a cooler approach to Russia's desire to play by not reacting. The official United States response to Russia's moving into the airport was to downplay the event. However, as far as the prediction is concerned, NATO clearly could have seen that coming if they had been more prescient with respect to the needs of Russia.

On the second point, the humiliation of Russia by the West has been ongoing for some time. It is a very risky business to expect that we can build a global security architecture for the 21st century without Russia as a keystone player along with China. The West must get over the idea that we will run the whole show for world security, and that brings us back to the utility of the United Nations. For no small reason was the United Nations formulated on the basis that the five permanent powers would have to agree on common goals in order to stop regionalization in military efforts.

Third, Senator Prud'homme says that he applauds the Russians arriving first. I suppose that he will probably have much company in that applause. However, I suspect that a couple of heads will roll in light of these events.

Hon. Nicholas W. Taylor: Honourable senators, I have a question for the honourable senator. I wonder whether the honourable senator was trying to lead me down a bit of a garden path when it comes to the Russians and the occupation of Kosovo.

There are two ways that one can control a corporation or a government. First, you may act in unison and all vote. Second, there is the divided method, where each one has a certain sector of the company to run. We could divide the area into peace sectors, as was done with Berlin. The honourable senator may not be as old as I, but he might recall the period following World War II when French, English, American and Russian sectors divided up that city.

Does the honourable senator believe that Kosovo would be better managed with three governments, a Chinese, Russian and a UN sector? Was he saying that the Russians must be included, but they would have to come in with the UN vote where their solutions might be considerably watered down? Which solution is the senator recommending?

Senator Roche: I certainly was not recommending a partition process in Kosovo. Indeed, the resolution adopted by the Security Council maintains that the establishment of an interim administration for Kosovo be determined by the Security Council

of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo.

As I tried to indicate earlier, the Russians were determined to get their oar in the water to ensure that not only the world but the Russian people understood that they were a part of the international presence. I believe that Russia is very much committed to preserving the integrity of the Kosovo state.

Hon. Jerahmiel S. Grafstein: Honourable senators, I wish to add to the congratulations of other senators to Senator Roche for his articulate defence of the position that NATO forces were in breach of international law when they decided to intervene on a question of humanity in Kosovo.

I wish to ask the senator if he could focus on a narrow question: Was the Federal Republic of Yugoslavia, because of its actions in Kosovo, in breach of either customary or conventional international law?

Senator Roche: Any country that treats its citizens the way the Federal Republic of Yugoslavia treated the people of Kosovo is in breach of its international requirements not only to keep the peace but to preserve human rights.

I said earlier that there is coming into play now in the international arena a recognition of the universality of human rights which challenges the previous and hitherto assumption that nothing was more sacred than national sovereignty. Therefore, my short answer to the Honourable Senator Grafstein is "yes."

Senator Grafstein: It is clear from the honourable senator's position that there was just cause. Where we disagree concerns who is mandated under the rule of law to enforce international law. That is the question before us.

• (1550)

Senator Roche: The very words "just cause" bring to mind the idea of a "just war." If I recall correctly, I believe Senator Grafstein referred to that yesterday in quoting Hugo Grotius. However, in talking about a "just war," you have to talk about limitation and proportionality also — two qualities that were totally absent in the NATO action.

As to who mandates, I do not think I can do any better in answering that question succinctly than to quote the Secretary-General of the United Nations who has appealed to the international community to restore the UN Security Council to what he has called its "pre-eminent position as the sole source of legitimacy on the use of force." Indeed, the very resolution that was adopted by the UN Security Council to bring about a peaceful resolution of the Kosovo crisis states in its first preambular paragraph:

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security, —

Thus, the answer to the question is clear: The United Nations Security Council has the authority to legitimate force.

Senator Grafstein: I do not quarrel with the fact that the Security Council has the legitimacy in terms of enforcement. I want to deal with the question of the UN Charter, upon which the honourable senator's argument is founded. In respect of the questions that were raised by Senator Stewart, he has acknowledged that the UN Charter, in some parts, has been superseded by subsequent conventions, both customary international law and conventional international law. He has mentioned that with respect to human rights.

Article 2 of the Charter states, in part:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; —

I think the honourable senator has now agreed that some aspects of the UN Charter at least have been superseded by conventional international law. Is that fair?

Senator Roche: Honourable senators, the Charter is a living tree; it is itself growing. The Honourable Senator Grafstein is quite correct in saying that subsequent treaties have given a new understanding of things. One example is the non-proliferation treaty which came into existence in 1970. When the UN Charter was adopted in 1945, nuclear weapons had not been invented. Thus, in order to deal adequately with nuclear weapons, the international community had to go to a new treaty, the non-proliferation treaty. Therefore, the non-proliferation treaty has the same function and role as the UN Charter. Yes, it has been superseded.

As a matter of fact, Chapter VIII of the UN Charter turns it around and states that it fosters regional bodies for the purpose of supporting the UN strategies on global peace and security.

Senator Grafstein: That is precisely what NATO has said it is doing, which is to support UN resolutions. As the honourable senator has pointed out, President Havel said precisely that. It was not in aid of aggrandizement; it was in aid of supporting UN resolutions.

I wish to return to the UN Charter for a moment. I take it that the honourable senator's case about exclusivity, as well as Annan's proposition of exclusivity or sole power, rests on Article 2, 4, which states:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state —

The word "refrain" does not mean "prohibit," it means "avoid." That clause refers very much to Article 2 of the Charter which the honourable senator says has been superseded by conventional treaty and territorial integrity.

How could the UN under Articles 2,4 or 2,7 of its Charter use force to intervene to support UN sanctions if, in fact, it was

argued by the Federal Republic of Yugoslavia to this day before the international court that this would be an invasion of its sovereignty and its territorial integrity? Was that not the source of the UN's inability to move on this issue?

Senator Roche: Honourable senators, Article 2,4 needs to be read in conjunction with Article 42, which authorizes the use of force against an aggressor when legitimized by the Security Council.

The nub and heart of my whole argument today is that the military action, if required, must fall under Article 42 to ensure that it is the entire international community that is taking this action against an aggressor, not just one regional body. That is the only way you will get global support.

Finally, I believe it was Senator Grafstein yesterday who advanced the argument, and in so doing I think he named Italy, Greece and one or two other countries that claimed that this was not just a domestic occurrence, because the spillover of refugees was making this an international situation and they were afraid of such dislocation in their internal domestic considerations that they had to call for international action.

Senator Grafstein: I cannot give honourable senators personal knowledge concerning China's actions with respect to the use of its veto. However, I do have personal and direct knowledge, as do other parliamentarians, with respect to Russia's conduct in terms of NATO members trying to induce Russia to be part of an international force. I say this from firsthand knowledge, all of which is contained in the records of the OSCE meeting held in Copenhagen last year.

At that time, the Americans made a great effort to try to establish a resolution of the OSCE which would involve Russia as a member of the contact group in a forceful intervention against the Serbian government's breaches of international law. Many hours were spent in trying to develop a resolution. The Russians would not agree to such a resolution. They would not agree to force. On the facts, firsthand and secondhand, Russia indicated clearly that it was not prepared to play.

Now that we have come down the road to Damascus with a conversion, which I recognize and accept as being prudentially positive for the future of the United Nations, at the crucial time when people were being slaughtered and ethnically cleansed, Russia refused to move. It refused to budge. I say that to the honourable senator not as a question of fact but as a question of argument.

Senator Roche: Senator Grafstein is returning the argument to his basic convention. The problems Russia has been facing are connected to its economic dislocation and the denuding of its military forces. It is simply not in a position today to match NATO's strength. It is fearful that NATO's overwhelming strength, which is 10 times greater than all the rest of the countries put together, will be used in a way that will disadvantage Russia. The expansion of NATO earlier this year sent shivers down the spines of many Russian military people.

We must have a little more understanding of what is really going on in Russia. I remember Senator Kinsella, myself and others pleading with the Government of Canada on an almost daily basis to get Russia involved, as opposed to there being a military engagement, because Russia possessed the key to a diplomatic and political solution.

• (1600)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, there have been fewer important debates in this chamber than the one we are engaged in right now. Not only does it speak to an issue involving Canadian men and women in that theatre of the world, it also speaks to many other theatres of the world, and thus my question to Senator Roche.

What lessons must we draw from this experience, in terms of our responsibility as a member state of the United Nations, to use more creatively our seat on the Security Council? We are in this very special position in these days. If there was any apprehension of a potential block of a resolution at the Security Council — and this is hypothetical — why would a country such as Canada not be using the General Assembly?

Senator Roche: I thank the Honourable Senator Kinsella for his question. The honourable senator is quite correct, that Canada, in its position as a member of the Security Council, is instrumentally placed to advance solutions. We must recognize, though — and I suppose we all do — that by world standards Canada is a small player and it is better, perhaps, not to try to over-reach in a unilateral, solo effort. That is why, in many questions today, we are calling for Canada to work with like-minded states.

Many like-minded states have come into their own following the end of the Cold War, and recognize that a common effort is needed to advance multilateral solutions that will carry the support of regions around the world. We cannot leave everything to the superpowers of the past tense, or the superpower of the present tense.

Canada's continuing, entangling relationship with the United States is an inhibiting factor in our freedom of action. There is a common feeling that we cannot annoy the Americans, and I certainly would not make that my career. I feel that it is necessary, however, in recognizing the dependence Canada has on the United States on many security and economic questions, that we, at the same time, espouse a friendship to the United Nations in speaking to them perhaps privately, but frankly, in support of multilateral solutions. The United States itself, therefore, would not feel it must carry the burden as world policeman.

I believe that, in working with like-minded states, we can summon up some courage, bravery, and a better explanation by the Government of Canada to the Canadian people as to what is involved in bringing forward Canadian strength, and perhaps recovering some of the strength that Canada had in earlier years in espousing foreign policies.

There is much to be said on this subject, and I will confine my answer there. However, Senator Kinsella evokes within me a sense that Canada has a tremendous responsibility in the modern world. We are the second largest piece of real estate in the world, a country which the United Nations called the number one country for our social life indices. We do not know how blessed we are in the sense of the capacity we have. Having worked at the United Nations myself for some time, I was always impressed, even sometimes embarrassed, at the manner in which other delegates would approach me. I am sure others in this chamber have been in similar circumstances and felt the same attitude, namely, the trust that other states and delegates repose in Canada.

I am only pleading here that Canada, having gone through this unfortunate experience in the Kosovo war, now redouble its efforts to build the conditions for peace, and work with like-minded states.

Senator Kinsella: Further, Senator Grafstein quite rightly raises the practical problem of the gross and consistent patterns of human rights violations that were occurring in Kosovo, being perpetrated by the Serbian authorities against the Kosovar Albanians. However, at the same time, there were atrocities being perpetrated by the Kosovar Albanians on the Serbian community. Therefore the world community is aware of gross and consistent patterns of human rights violations. That, of course, speaks to resolution 1503 of the General Assembly.

In many parts of the world, however, the United Nations Human Rights Commissions, and others, have said that there are gross and consistent patterns of human rights violations occurring. In different theatres of the world, will the regional forces be justified in banding together and bombing that country? Is this what we have opened up? Are we involved in an international Wild West model, or are we able to learn from this experience and challenge, by the points that Senator Grafstein has raised, and that we must tie together with the law, which may be dragging a little behind, the regional organizations that are playing critical roles in international order?

Senator Roche: Honourable senators, Senator Kinsella has very effectively answered his own question. I am in total agreement with what he has said, so I will not repeat it all.

I did not refer at length this afternoon to the KLA, the Kosovo Liberation Army. A dangerous situation indeed now lies on the horizon with respect to what they will do. With respect to other regional trouble spots, what is happening, or might happen, in Tibet, or Taiwan, and other sources of conflict today, as a result of the certain inspiration that others may have received as a result of a regional body taking unto itself the enforcement powers of deciding when force will be used. All of that poses some real dilemmas down the line. Therefore, I once more appeal for Canadian strength and action in working with like-minded countries to strengthen the United Nations' capacity to deal with international peace and security questions in every region of the world.

On motion of Senator Kinsella, debate adjourned.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the right-hand side of our gallery of a distinguished visitor. We have with us one of our past colleagues, the former honourable senator the Honourable Richard Stanbury.

Hon. Senators: Hear, hear!

INTERNATIONAL POSITION IN COMMUNICATIONS

Leave having been given to revert to Reports of Committees:

CONSIDERATION OF REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the report of the Subcommittee on Communications of the Standing Senate Committee on Transport and Communications entitled: "Wired to Win! Canada's Positioning Within The World's Technological Revolution," deposited with the Clerk of the Senate on May 28, 1999.—(Honourable Senator Spivak)

Hon. Mira Spivak: Honourable senators, as the Deputy Chair of the Senate Subcommittee on Communications, I am pleased to have the opportunity of speaking on the tabling of "Wired to Win!" which, unfortunately, I was not here for. The whole title is "Wired to Win! Canada's Positioning Within The World's Technological Revolution."

This report has been a work in progress for more than three years. The interim report was submitted in April 1997, and now the final report, containing 21 recommendations, has been tabled. I consider them to be important documents for one very important reason: At no time in world history has humankind countenanced such a massive exchange of information on a planetary scale. The industrial revolution of some 200 years ago had far-reaching consequences that were ineffable at the time. An agrarian existence gave way to factories, machinery, and to the migration of country folk to the villages and towns of Europe.

For good or ill, that is for another debate. On the one hand, there were the sweatshops, environmental pollution and horrendous exploitation. However, this great leap forward also brought with it wealth and the creature comforts we enjoy today. True, many parts of the world are less fortunate than we, where freedom and security are lacking, basic possessions scarce, and access to health care and education practically non-existent. However, if knowledge is power, then the benefits of instant communication and the sharing of information that modern telecommunications allows could well be the key to a brighter future.

• (1610)

Throughout the hearings for the two reports, a newly minted phrase was heard repeatedly — the death of distance — for that

is what the technological revolution has achieved; a capacity for instant communication between any two points on earth. As with the industrial revolution, the new information era presents unknowns, and it was with that in mind that the Subcommittee on Communications went about the task of trying to identify the impact of telecommunications technology on Canada. It examined where we have been and where we are — at the so-called old media, in the form of regulated radio and television, that offer point-to-multipoint distribution, and at the new media of the Internet and the World Wide Web, the so-called point-to-point distribution.

The interim report focused on Canada's international competitive position in communications and established that we are well placed, because of our talent and telecommunications infrastructure, to play a leading role in this new revolution. The findings of the final report stemmed from a sweeping inventory of where we fit into the technological market-place, the evolving industry that is driving it, and in particular the impact upon our own culture.

Let me say, before I go any further, that it was the expert witnesses who allowed the subcommittee to put into context divergent views on complex issues. The result is a list of 21 recommendations that form the basis for discussion on how this country should respond to the challenges of the technological revolution. Their testimony provided invaluable resource material, and on behalf of the committee I wish to extend our sincere appreciation to them.

Without exception, it was recognized by all those who provided input into the hearings that Canada has a right and a responsibility to safeguard its cultural identity. The final report reflects this in the recommendations, with roughly half of those recommendations referring specifically either to culture or Canadian content — words frequently used synonymously.

The Internet and the World Wide Web figured prominently in the discussions, and these two are mirrored in the recommendations, along with the need for competition within the industry, new media literacy, the development of young talent, the protection of intellectual property, and the role of our cultural agencies and the CRTC. We covered a lot of ground, but, in the interests of time, I will confine myself to only a few aspects of the recommendations.

The committee wrestled with the question of what constitutes culture. Is it art, literature, a ballet performance, or something broader, something that more accurately defines who we are? The committee elected for a broader view along the lines of that taken by UNESCO, whose definition of culture includes architecture, the arts, crafts, heritage, multiculturalism, native culture, parks and recreation, religion, sports, and urban design. As noted in the executive summary of the full report, that perspective gives us a lot to celebrate, for Canada has much to showcase in each of these categories. The committee firmly believes that these values must be reflected in the new media products of the future, in the ways we present ourselves through emerging technologies. As such, the recommendations are designed to ensure that Canadian culture, talent and technology command a global presence.

Fiscal incentives and other inducements are suggested to encourage producers of media content and cultural products to develop exportable commodities, such as movies and TV programs. In particular, the committee recommends the creation of a national cultural trading agency to consolidate current international marketing activities and provide a one-stop venture for Canadians engaged in producing content or cultural items for export. The committee goes further in suggesting that English-language public television broadcasters should emulate French broadcasters and seek alliances with their international counterparts to provide a new global network offering top quality programming. It is in this context that I believe the protection of the future of the CBC and its venture lies.

The committee also suggested that a committee be set up under Part I of the Status of the Artist Act to examine the working conditions and laws affecting the self-employed who are increasingly found in the cultural arena and new media. It is, of course, a vast area of employment at very modest rates that our artists have provided for Canada.

As for the World Wide Web, incentives should be offered to Canadian portal companies so that they will give prominence to domestic cultural content — rather than imposing conditions for doing business. In the same vein, the CBC, as this country's public broadcaster, is encouraged to devote resources for a portal or search engine that would provide access to Canadian content on the Internet. This race for portals on the Internet and who will control them is the hottest race at the moment.

These measures should not be viewed as protectionist but as initiatives to promote Canadiana at home and abroad. However, as far as international trade negotiations are concerned, the government should reaffirm its position that Canada will not relinquish its cultural sovereignty, that our culture is not negotiable.

In the debate over foreign access to our market, it should be noted that Canada is already wide open: 90 per cent of the prime time television we watch is American; 95 per cent of the movies we watch are not made in Canada; 84 per cent of the records we listen to are in voices other than our own; 70 per cent of books we read are written by non-Canadians; and 50 per cent of the magazines we buy come from elsewhere. I certainly wish the Minister of Canadian Heritage every strength that she can muster to make sure that that remains the way it is because, honourable colleagues, not only are we open to foreign competition but our cultural identity has thrived despite being inundated with foreign material. All you have to do is think of the home-grown female singers — male as well — topping the recording charts, our authors, actors and producers who have succeeded in the big leagues of the entertainment industry by having their presence subsidized and protected by the government. Here the importance of our cultural institutions in developing regional talent should not be overlooked, especially the CBC, the Canada Council and Telefilm Canada. It was through forward-thinking policies of the past that these institutions — not forgetting the CRTC and its role in ensuring Canadian content in the broadcasting sector — showed us who we are, whether on canvas, film, vinyl, cassette disk, or the printed page.

The Internet, of course, was the focal point of our hearings, and conflicting views emerged on whether it should be regulated. Some argued in favour of a hands-off approach, pointing out that Internet sites are everywhere and nowhere — and I note the recent CRTC decision. Close one down, it is said, and it opens under another guise. Others maintain that the Internet can be regulated by imposing strictures on Internet service providers. After all, everything is not a point of light on the Internet; there are also people who could, for example, be held responsible for filtering objectionable material, such as violence, pornography and racism. Laws to curb vile Web sites, along with the need to protect intellectual property, pose great challenges for the governments of the world, for it will be difficult to come to universal agreement, try, though, we must.

On the issue of regulation, it is interesting to note that the CRTC recently announced that it would not try to regulate the Internet because that would put Canadian companies at a competitive disadvantage. I do not exactly agree. Furthermore, by deciding that online broadcasts from traditional broadcasters, such as radio and TV stations, will be exempt from CRTC control, the agency has addressed a particular concern of the committee which wanted the government to clarify the distinction, if any, between telecommunications and broadcasting.

In another sphere, the committee is reiterating its admonition in the interim report that care must be taken to ensure that we do not create in Canada a group of technological have-nots — in other words, people marginalized by not having the opportunity to access computers. While we must insist on preparing young Canadians for the technological challenges of the information age, we must also insist that they be educated to a superior level of reading and writing ability, and we have someone in our midst who is trying her best to ensure that that happens — Senator Fairbairn.

A few moments ago, I briefly mentioned the necessity of developing policies to protect intellectual property. We, the subcommittee members, feel that a step in the right direction would be to expedite Phase III revisions to Canada's copyright law.

• (1620)

As well, we advocate the adoption of measures to ensure individual privacy on the Web. Indeed, one of the reasons cited why web business has not reached its potential is the fear that personal information will be disclosed to other parties, particularly for e-commerce. An attempt by some huge corporations in the U.S. to foster trust among Web users failed because of abuses and lack of standards. As a result, there are calls for tough legislation by the U.S. Congress, and the European Commission is pushing for strict international rules governing personal information about European citizens. In the absence of worldwide agreement, one idea being advanced is for Web sites to disclose which jurisdictions they abide by. This would give customers an idea of the laws under which a company operates.

What clearly emerged during the hearings was a high degree of activity taking place within the telecommunications industry. Different sectors — conventional broadcasting, cable TV, satellite TV, telephony, local wireless, and electrical utilities — are vying to become the dominant distributor of the new media. These once-regulated monopolies are vying with one another, forming strategic alliances in a competitive free-for-all.

While this market-place spirit is good news for consumers, the subcommittee is concerned that an unfettered process of acquisitions and mergers could lead us right back into a monopolistic situation. Consequently, the government is advised to be alert for any trend along these lines, and urge the Competition Bureau to ensure that competition is not stifled through mergers and acquisitions.

Earlier in my remarks, honourable senators, I hinted at brevity, but I may have overstated my intention by exploring some of the issues that we dealt with as a subcommittee. However, if they serve to highlight the importance of the issues with which we are confronted in this technological revolution, then I hope my time will have been well spent. I trust senators will read the report and glean a deeper insight into some of the ramifications swirling around us, and what we can do about them.

I cannot close without offering my sincere appreciation to the Chair of the committee, who is a workaholic such as I have never seen. Her efforts, single-handedly, propelled this report forward. I also wish to thank my colleagues on the subcommittee who I think are just fantastic. All are females, except one. That shows you what can be done if we try hard.

On motion of Senator Maheu, debate adjourned.

ELECTION OF CANADA TO UNITED NATIONS SECURITY COUNCIL

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Roche calling the attention of the Senate to the election of Canada to the United Nations' Security Council for 1999–2000, and Canada's role in contributing to peace, global security and human rights in the world on the eve of the new millennium.—(Honourable Senator Andreychuk)

Hon. A. Raynell Andreychuk: Honourable senators, I wish to participate in the debate on this issue. I believe that Canada's assuming a seat on the Security Council of the United Nations is an important step and therefore one that should be scrutinized by a parliamentary process. I am not certain what reasons led the government to believe that this was the opportune time to seek election to the Security Council, but I do know that much time

and attention was spent in seeking and successfully obtaining that Security Council seat.

I know that in past times votes were traded, opportunities were gained and promises were made, and these were far-reaching in both obligations and opportunities for Canada. I know that much money and much effort was spent by many individuals in obtaining the Security Council seat. Therefore, I think it is important that, when the year is over, the Minister of Foreign Affairs undergo some parliamentary scrutiny to determine whether the objectives that were set for Canada on the Security Council have been met, because I believe the cost has been high.

Honourable senators, at a later date I should like speak in greater detail as to why I believe it would be important for the Senate to study this issue and to invite the Minister of Foreign Affairs to come before us at the end of the year, in January of the year 2000, to explain whether this effort has been successful, and whether it is important for Canada to continue. It is becoming increasingly important that foreign policy be seen as part of a strategy within a national debate.

On motion of Senator Andreychuk, debate adjourned.

ABORIGINAL PEOPLES COMMITTEE

ROYAL COMMISSION ON ABORIGINAL PEOPLES—
MOTION TO PERMIT COMMITTEE TO TABLE FINAL REPORT
ON STUDY WITH CLERK ADOPTED

Hon. Sharon Carstairs (Deputy Leader of the Government), for Senator Watt, pursuant to notice of June 10, 1999, moved:

That, in relation to the Order of the Senate adopted on Tuesday, December 9, 1997, the Standing Senate Committee on Aboriginal Peoples, which was authorized to examine and report upon the recommendations of the Royal Commission Report on Aboriginal Peoples (Sessional paper 2/35-508) respecting Aboriginal governance, be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate if the Senate is not sitting, and that the report be deemed to have been tabled in the Chamber.

Hon. Fernand Robichaud (Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, June 16, 1999, at 1:30 p.m.

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